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# Congressional Record

PROCEEDINGS AND DEBATES OF THE 87th CONGRESS, SECOND SESSION

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# Senate

The Senate met at 12 o'clock noon, and was called to order by the Vice President.

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

Eternal God, our Father, as with our hands filled with the perplexing tasks of the present we turn to Thee for strength, may our eyes not be oblivious to the beauty that blooms by the side of today's pathway—for the glory of the way, as well as its obligations, is Thy gift.

And now as our earth spins in space and another day is before us, so soon to be behind us forever, we know that only this once can we seize the day for which now we crave Thy blessing and approval.

May we live it in the light of the yesterdays into whose labors we have entered, as the past warns us by its errors, informs us by its achievements, and inspires us by its sacrifices.

In our stewardship of today, and of the days to be that may be granted, we are thankful for the friends whose faith calls out the hidden best that is in us, for children who call us by the holiest name men and women may ever know, and for the challenge to our utmost, in which we rejoice as strong men preparing to run a race.

Thus, before our little day ebbs out and our work is done, with patience and courage may we serve the present age our calling to fulfill.

We ask it in the Redeemer's name. Amen.

## THE JOURNAL

On request of Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Thursday, January 25, 1962, was dispensed with.

## MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Miller, one of his secretaries.

## MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (H.R. 157) to change the name of the Playa del Rey Inlet and Harbor, Venice, Calif., to the Marina del Rey, Los Angeles, Calif., and it was signed by the Vice President.

## EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of executive business, to consider the nominations on the Executive Calendar.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

## EXECUTIVE MESSAGES REFERRED

The VICE PRESIDENT laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

## EXECUTIVE REPORT OF COMMITTEES

The following favorable reports of nominations were submitted:

By Mr. HILL, from the Committee on Labor and Public Welfare:

Francis A. O'Neill, Jr., of New York, to be a member of the National Mediation Board.

## EXECUTIVE REPORTS OF COMMITTEE ON ARMED SERVICES

Mr. RUSSELL. Mr. President, from the Committee on Armed Services, I report favorably the nominations of 1 general, 4 lieutenant generals, and 1 major general, for special assignment in the Army; 1 general, and 4 lieutenant generals to be placed on the retired list of the Army; 1 officer to be a temporary brigadier general in the Army; 4 lieutenant generals for special assignment in the Air Force, and 1 general to be placed on the retired list of the Air Force; 120 officers in the rank of brigadier general and major general, for temporary and permanent appointment in the Air Force; the permanent promotion in the Navy of 26 rear admirals, and permanent appointment in the Marine Corps of 5 major generals and 8 brigadier generals. I ask unanimous consent that these names be placed on the Executive Calendar.

The VICE PRESIDENT. The report will be received, and the nominations will be placed on the Executive Calendar.

The nominations are as follows:

Maj. Gen. Robert John Fleming, Jr., U.S. Army, for appointment as Governor of the Canal Zone;

Lt. Gen. Paul DeWitt Adams, U.S. Army, to be assigned to a position of importance and responsibility designated by the President;

Maj. Gen. Samuel Leslie Myers, U.S. Army, Maj. Gen. John Phillips Daley, U.S. Army, and Maj. Gen. William Wilson Quinn, U.S. Army, to be assigned to positions of importance and responsibility designated by the President, in the rank of lieutenant generals;

Augustus G. Elegram, for appointment as a temporary brigadier general in the Army of the United States, and for reappointment as colonel in the Regular Army of the United States, from the temporary disability retired list;

Gen. Bruce Cooper Clark, Army of the United States (major general, U.S. Army), and sundry other officers, to be placed on the retired list;

Charles B. Brooks, Jr., and sundry other officers of the Regular Navy, for permanent promotion to the grade of rear admiral;

Leroy J. Alexanderson, and Grant G. Calhoun, officers of the Naval Reserve, for permanent promotion to the grade of rear admiral;

Alpha L. Bowser, and sundry other officers of the Marine Corps, for permanent appointment to the grade of major general;

Thomas F. Riley, and sundry other officers of the Marine Corps, for permanent appointment to the grade of brigadier general;

Gen. Charles P. Cabell, (major general, Regular Air Force), U.S. Air Force, to be placed on the retired list in the grade of general;

Maj. Gen. Bruce K. Holloway, Regular Air Force, Maj. Gen. James Ferguson, Regular Air Force, Maj. Gen. Harvey T. Alness, Regular Air Force, and Maj. Gen. Thomas S. Moorman, Jr., Regular Air Force, to be assigned to positions of importance and responsibility designated by the President, in the rank of lieutenants general;

Maj. Gen. John S. Hardy (brigadier general, Regular Air Force), U.S. Air Force, and sundry other officers, for appointment in the Regular Air Force; and

Brig. Gen. Don Coupland, Regular Air Force, and sundry other officers, for temporary appointment in the U.S. Air Force.

Mr. RUSSELL. Mr. President, I also report favorably the nominations of 397 officers in the grade of lieutenant colonel and below, for promotion and appointment in the Army. All of these names have already appeared in the CONGRESSIONAL RECORD. In order to save the expense of printing on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The VICE PRESIDENT. The report will be received, and, without objection, the nominations will lie on the desk, as requested by the Senator from Georgia.

The nominations are as follows:

Therese A. Quinby, for promotion in the Regular Army of the United States;

Ronald P. Abreu, and sundry other officers, for promotion in the Regular Army of the United States;

Clifton F. Vincent, for reappointment as a captain in the Regular Army of the United States, from the temporary disability retired list;

Robert C. Hamilton, and sundry other persons, for appointment in the Regular Army of the United States; and

John R. Allen, and sundry other distinguished military students, for appointment in the Regular Army of the United States.

Mr. RUSSELL. Mr. President, also from the Committee on Armed Services, I report favorably the nominations of 27 major generals and 51 brigadier generals for temporary appointment in the Army. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations are as follows:

Brig. Gen. Carl Darnell, and sundry other officers for temporary appointment in the Army of the United States.

The VICE PRESIDENT. If there be no further reports of committees, the nominations on the Executive Calendar will be stated.

## MEMBER, BOARD OF GOVERNORS, FEDERAL RESERVE SYSTEM

The Chief Clerk read the nomination of George W. Mitchell, of Illinois, to be a member of the Board of Governors of the Federal Reserve System for a term of 14 years from February 1, 1962.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

## AMBASSADOR

The Chief Clerk read the nomination of William E. Stevenson, of Colorado, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Philippines.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

## ENVOY

The Chief Clerk read the nomination of William A. Crawford, of the District of Columbia, a Foreign Service officer of class 1, to be Envoy Extraordinary and Minister Plenipotentiary of the United States of America to Rumania.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

## SECRETARY OF THE NAVY

The Chief Clerk read the nomination of Fred Korth, of Texas, to be Secretary of the Navy.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

## DIRECTOR OF CENTRAL INTELLIGENCE

The Chief Clerk read the nomination of John A. McCone, of California, to be Director of Central Intelligence.

Mr. MANSFIELD. Mr. President, I I ask that this nomination be placed at the foot of the calendar.

The VICE PRESIDENT. Without objection, it is so ordered.

## ASSISTANT SECRETARY OF THE AIR FORCE

The Chief Clerk read the nomination of Neil E. Harlan, of Massachusetts, to be an Assistant Secretary of the Air Force.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

## ASSISTANT SECRETARY OF STATE

The Chief Clerk read the nomination of Frederick G. Dutton, of California, to be an Assistant Secretary of State.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

## UNDER SECRETARIES OF STATE

The Chief Clerk read the nomination of George W. Ball, of the District of Columbia, to be Under Secretary of State.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

The Chief Clerk read the nomination of George C. McGhee, of Texas, to be Under Secretary of State for Political Affairs.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

## REPRESENTATIVE ON THE POPULATION COMMISSION OF THE ECONOMIC AND SOCIAL COUNCIL OF THE UNITED NATIONS

The Chief Clerk read the nomination of Dr. Ansley J. Coale, of New Jersey, to be the representative of the United States of America on the Population Commission of the Economic and Social Council of the United Nations.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

## U.S. ARMS CONTROL AND DISARMAMENT AGENCY

The Chief Clerk read the nomination of William C. Foster, of the District of Columbia, to be Director of the U.S. Arms Control and Disarmament Agency.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

The Chief Clerk read the nomination of Adrian S. Fisher, of the District of Columbia, to be Deputy Director of the U.S. Arms Control and Disarmament Agency.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

## PRESIDENT'S SPECIAL REPRESENTATIVE AND ADVISER ON AFRICAN, ASIAN, AND LATIN AMERICAN AFFAIRS, AND AMBASSADOR AT LARGE

The Chief Clerk read the nomination of Chester Bowles, of Connecticut, to be the President's special representative and adviser on African, Asian, and Latin American affairs, and Ambassador at Large.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

## U.S. AMBASSADORS

The Chief Clerk proceeded to read sundry nominations of ambassadors.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that these nominations be considered en bloc.

The VICE PRESIDENT. Without objection, the nominations of ambassadors will be considered en bloc; and, without objection, they are confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the action taken by the Senate in confirming these various nominations.

The VICE PRESIDENT. Without objection, the President will be notified forthwith.

## TRANSACTION OF LEGISLATIVE BUSINESS

By unanimous consent, as in legislative session, the following routine business was transacted:

## EXECUTIVE COMMUNICATIONS, ETC.

The VICE PRESIDENT laid before the Senate the following letters, which were referred as indicated:

REPORT ON OFFICERS ASSIGNED TO PERMANENT DUTY IN THE EXECUTIVE ELEMENT OF THE AIR FORCE AT THE SEAT OF GOVERNMENT

A letter from the Secretary of the Air Force, reporting, pursuant to law, that, as of December 31, 1961, there was an aggregate of 2,280 officers assigned or detailed to permanent duty in the executive element of the Air Force at the seat of government; to the Committee on Armed Services.

REPORT OF BOARD OF VISITORS TO U.S. NAVAL ACADEMY

A letter from the Secretary to the Board of Visitors, U.S. Naval Academy, Annapolis,

The radicals of the right fulfill none of these criteria. They are at odds with the purposes which are our strength and our hope—freedom and democracy.

I do not propose that committees of Congress caravan about the country conducting investigations into the activities of the radical right. I believe we have had enough investigations into the political beliefs of free American citizens.

I do propose, however, that all Americans who cherish liberty and democracy become alert to the danger from the right and defend in their communities the right of their neighbors to speak their views, however unpopular they may be. Free discussion is the lamp that lights democracy. Its glow must not be dimmed under a shroud of fear.

## THE PEACE CORPS

Mr. YOUNG of Ohio. Mr. President, in the last session I supported the program of the Peace Corps and went along with its personable and really outstanding Director, Sargent Shriver, supporting the appropriation he sought. Now may I confess my faith and confidence has been somewhat shaken, although not shattered.

As a Senator of the United States, Mr. President, in referring in a questioning and critical manner to the Peace Corps, I fear that, like Moses on Mount Horeb, I am treading on holy ground. In the fifth chapter of Joshua it is written: "And the captain of the Lord's host said to Joshua, 'Loose thy shoe from off thy foot; for the place whereon thou standest is holy.'" Also in Exodus, chapter 3, I believe, Moses as he was directed, "came to the Mountain of God, even to Horeb."

Well, Mr. President, my shoe is loosed off my foot and I report to you sir, that I take a dim view of officials of the Peace Corps directing subordinates that they may, when they see fit, classify reports and memorandums "top secret," "secret," and "confidential," "not for publication," and all that sort of thing, ad nauseam.

In my judgment, Sargent Shriver, Director of this outfit, should back up, repudiate, and withdraw any directive of this sort—immediately.

My constituents and I, as their public servant, are entitled to know the facts regarding the successes and failures of this governmental agency concerning which there has been so much favorable propaganda.

Does anyone really claim that the Peace Corps is a policymaking agency of our Government? This noble experiment may go the way of another so-called noble experiment if its Director enforces a protective screen against reporting regarding the work, or failure to work, of the teachers, thoughtful, dedicated individuals and "do-gooders" who are enrolled in the Peace Corps. Let the people know the truth.

I seriously question the claim, if such claim is advanced by officials of the Peace Corps, that the enrolled youths, young men and women, or the Peace Corps itself sometimes conduct "very delicate diplomatic negotiations with many different countries."

We have a State Department and a Foreign Service and Ambassadors of the United States everywhere in the world. No nation, emerging or established, however remote, seems to be off limits to an American Embassy and to members—plenty of them—of our diplomatic corps, and the sun never sets on our military missions. Let us call a halt to any claim that the Peace Corps has authority to conduct "very delicate diplomatic negotiations with many different countries." I have confidence in our Armed Forces and in our State Department. Their activities, directives, and reports may frequently be classified "top secret," "secret," and "confidential." However, Mr. President, let us have no classified "top secret," "secret," "confidential" and "not for publication" emanations from publicity men of our Peace Corps. In fact, if the Peace Corps does the job we expect of it, and for which our taxpayers are paying, I know of no reason for their need of publicity men.

Mr. President, in support of my views, I ask unanimous consent to include at this point in the RECORD, as a part of my remarks, an editorial recently published in the Daily News of Washington, D.C., a Scripps-Howard newspaper.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

FOR WHOSE EYES ONLY?

Peace Corps activities, it develops, can be classified "top secret," "secret," "confidential," "not for publication" and all that sort of thing.

What have we here—another policy-making outfit of the Government operating behind the old protective screen when it chooses? We thought the Peace Corps was going to be perfectly transparent as it went about its deeds of openhanded goodness in the underdeveloped countries.

But hardly so, according to a spokesman as quoted by the United Press International. It seems the secrecy order is necessary because Sargent Shriver's youths or the Corps itself sometimes conduct "very delicate diplomatic negotiations with many different countries."

We thought that business was reserved for the State Department and Representative JOHN MOSS' House Information Subcommittee seems justified in asking how come. The only "delicacy" we've heard so far is the question of whether Peace Corpsmen should be sent to Japan, or whether Japan wants them. Admittedly it is a sort of delicate question whether Japan is an underdeveloped nation, what with its unprecedented industrial boom—to the extent that we send five Cabinet members there to learn how a country can get so prosperous.

The Moss committee should take a stiff-necked look at this use of the "top secret" stamps.

Mr. YOUNG of Ohio. Mr. President, the Peace Corps is now nearly 1 year old. It is, so to speak, on a shakedown cruise in international waters. I am sure we wish it a peaceful, smooth, successful voyage. Frankly, though, I believe the Peace Corps already has hit a reef.

It was disturbing and disappointing to me to read recently that Peace Corps officials apparently wish to hide under the protective blanket of secrecy.

Peace Corps officials evidently have received permission to classify documents and reports as "top secret." The grounds, as one Peace Corps spokesman put it, according to the Washington Post of January 23, 1962, are that the Peace Corps conducts "very delicate diplomatic negotiations with many different countries."

Mr. President, it is fair to wonder what delicate diplomatic negotiations the Peace Corps is charged with, and why should its negotiations be cloaked under the top secret privilege?

If any organization and its activities should be completely open to public scrutiny, it is the Peace Corps.

In enacting legislation creating the Peace Corps, the Congress specifically stated its purpose is to help promote a better understanding of the American people on the part of the peoples served and a better understanding of other peoples on the part of the American people.

We had high hopes for the success of the Peace Corps in helping do away with misery, squalor, hunger, and disease in underdeveloped areas of the Western Hemisphere and elsewhere, and incidentally to prove to people the world over we were not Yankee imperialists, but that ours is a way of life to enable people of all races, traditions, and cultures to live together in peace, friendship, and contentment and to restore to downtrodden peoples their simple dignity as creatures of God. This purpose is not served by secrecy. Secrecy does not promote understanding. It limits it.

Nothing is to be gained by giving another new bureaucracy the privilege of secrecy, and I maintain that nothing would be lost by denying it this privilege. The Peace Corps should not even be operating in any area remotely concerned with secrecy.

It was represented to me that it sends representatives to another country only upon invitation. Though negotiations obviously may be necessary, what could possibly be so delicate about them that they must be kept secret from the American public? Shades of the Central Intelligence Agency.

Beyond its delicate negotiations, Mr. President, the Peace Corps—according to the order granting it top-secret status—has "a primary responsibility for matters pertaining to national defense."

The definition of national defense has to be stretched beyond credibility to accept this line of reasoning.

What relationship does the Peace Corps bear to our national defense? I see none in sending groups of Americans to underdeveloped nations to teach, or to help build public works. By these standards we could constitute the Cub Scouts of America as a Government agency and give them top secret status on the grounds of national defense.

In the early flush of enthusiasm over the idealism of the Peace Corps, it was believed volunteers would live at the same level as citizens of the countries to which they are assigned. In view of this, I was shocked to read in the December 25, 1961, issue of Newsweek magazine the following quote from a young Peace Corps man serving in Ghana: "I've got a huge bungalow with three bedrooms, living room, dining room, family-size kitchen, huge bath facilities—the works."

A Peace Corps Public Affairs Division pamphlet declares housing for volunteers

overseas will be simple and unostentatious, and in view of the fact that it costs American taxpayers approximately $9,000 a year to maintain a Peace Corps volunteer, this Corps man's status comes as startling news.

The young man goes on to say:

I have a cook-steward who fixes the meals, washes, irons, and markets. Except for the twenty-two 40-minute periods that I teach each week, my time is my own.

Mr. President, when we consider the hours of work our fellow Americans put in at their daily tasks, and when we Senators consider—though we are not complaining—the hours of work we put in attempting to be good public servants, it is a little startling to read about this young man, who said, "Except for the twenty-two 40-minute periods that I teach each week, my time is my own."

Mr. President, though I am sure this is an exception, this enrollee of the Peace Corps is enjoying a vacation instead of participating in a noble experiment in international relations.

In Ghana, it should also be pointed out, Peace Corps volunteers teachers receive nearly $2,000 a year living expenses from the Ghanaian Government, presumably to permit them to live on a scale comparable to native teachers, few of whom I am sure have a combination cook-steward. How much does the Philippine Republic pay to each Peace Corps man in addition to the salary and expenses paid by American taxpayers?

As stated earlier, Mr. President, the Peace Corps, only a year old, is still on its shakedown cruise. In general, it has been greeted with enthusiasm, and deservedly so. It is capable of a splendid contribution to international understanding. Let the people know the truth. Is this an outfit of teachers and do-gooders who are serving their country for $75 a month rendering a real and needful public service? Or, in various underdeveloped countries are Peace Corps men being paid additional salaries? If so, this money, to tell the truth, also comes from our foreign assistance funds. My constituents have a right to answers to questions as to the total cost of this program. What are the fringe benefits Peace Corps men receive?

May I further suggest that if a number of young men and women of the Peace Corps are returned to this country because of disability incurred in line of duty by disease or accident, American citizens are entitled to know the facts—whether it is contemplated disability claims are likely to be paid and pensions awarded during the coming 50 years or more. What provision is contemplated for the care of former Peace Corps men who may suffer disability as long as they live following their service overseas of 1 or 2 years? I shall not be around to help foot the bill, but millions of our children and grandchildren will sweat and pay, and they deserve to receive and should receive consideration.

In each country where the Peace Corps has been invited and is functioning I ask that a complete report be made public at frequent intervals and that our people be fully informed as to the total compensation and fringe benefits paid to each person overseas including payments made by various governments in addition to the cost directly borne by our citizens.

## AGREEMENT TO VOTE ON THE NOMINATION OF JOHN A. McCONE TO BE DIRECTOR OF CENTRAL INTELLIGENCE.

Mr. MANSFIELD. Mr. President, if I may have the attention of the Senate, I should like to propound a unanimous-consent request.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MANSFIELD. I have discussed, with those who are interested in the nomination, the proposal I intend to make. I am in receipt of a request from a Senator who is very much interested in the pending nomination. This colleague of ours states he would deeply appreciate postponement of the final vote on the McCone nomination "until my return." It is my understanding that this Senator is due to return at 9 o'clock this coming Wednesday morning. In view of his request, and based on the fact and my understanding, I ask unanimous consent that the vote on the McCone nomination be undertaken at 2 o'clock on Wednesday next.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. JAVITS. I had an experience with the consent matters, I wish to say to my colleague, the other day, when I was sitting out in the lobby and a unanimous-consent request with respect to a matter which interested me was made and granted and that was the end of that.

Mr. MANSFIELD. Mr. President, if the Senator will yield, I think he is referring to me as the guilty party. I was guilty. I did promise to notify the Senator, but I forgot.

Mr. JAVITS. Mr. President, I was not quite finished. I never consider my friend, the Senator from Montana, as ever guilty to me. I respected what he did. I know he forgot. I am sure of that. I have no doubts about it.

I wish to ask the Senator a question. Of course, I shall not insist with respect to this unanimous-consent request, because I have given him no notice, but it does seem to me we ought to have a practice in the Senate that every time there is a unanimous-consent request of this character for a vote, which cuts off debate, we should have a live quorum. I think the very least we can do, in the interest of the minority alone, if one would say that, is to give everybody a live notice that a very important decision is going to be reached by unanimous consent.

As it is, Members at their peril leave the floor for 30 seconds, and a very important decision which affects them may then be taken.

I shall not object, of course. I only address these comments to the majority leader as a request, as a suggestion from one brother in arms to another. I hope it will be given what I think is fair consideration, because it really is essential in order to protect all Members when we go into a busy session with lots of very important decisions to be made by unanimous consent.

Mr. MANSFIELD. Mr. President, I think the Senator's request is worth consideration. I shall be most happy to discuss it with the minority leader.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none and it is so ordered.

## UNANIMOUS-CONSENT AGREEMENT FOR RECOGNITION OF THE SENIOR SENATOR FROM LOUISIANA AT THE CONCLUSION OF MORNING BUSINESS, JANUARY 30, 1962

Mr. MANSFIELD. Mr. President, one of our colleagues, the distinguished senior Senator from Louisiana [Mr. ELLENDER], makes a trip every year to various parts of the world, and comes back with voluminous and detailed reports. It has been my belief that for all too many years we have not paid enough attention to the reports by our distinguished colleague. I should like, therefore, to ask unanimous consent at this time that at the conclusion of the morning hour tomorrow the senior Senator from Louisiana be recognized to make a report which I think will be worth the attention of all Members of the Senate.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. JAVITS. I have asked the Senator to yield so that I may understand the request. There will be proceedings, I say to my colleague, in connection with the morning hour tomorrow.

Mr. MANSFIELD. Yes.

Mr. JAVITS. Which might involve some debate.

Mr. MANSFIELD. Yes.

Mr. JAVITS. Do I correctly understand that that debate is to take place before the unanimous-consent request is to take effect?

Mr. MANSFIELD. Yes. The unanimous-consent agreement would take effect at the conclusion of the morning hour or the morning business.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

## BILL OF RIGHTS CONTEST WINNERS

Mr. DIRKSEN. Mr. President, every year the South Chicago Chamber of Commerce conducts an essay contest on the subject of Americanism. Some of these essays are extremely well done. I have been advised by Mr. Vincent L. Knaus, chairman of the Americanism Committee of the South Chicago Chamber of Commerce, that Mr. Richard Sklenar, 10239 Morgan, a sophomore at

Missouri," by Henry C. Hart, University of Wisconsin Press; "Toward Responsible Government," by Edward F. Renhaw, Idyia Press, Chicago; publications of Resources for the Future, Inc., and the Conservation Foundation; proceedings of the western resources conference, published by the University of Colorado Press.

## UKRAINIAN INDEPENDENCE DAY

Mr. PROXMIRE. Mr. President, this year we celebrate the 44th anniversary of the historic independence day of the great Ukrainian people. It is a sad fact of history that the liberty-loving people of the Ukraine experienced freedom and self-government for only 2 years, from 1918 to 1920. This brief period of independence was the culmination of a struggle for self-determination which began in the 17th century, and endured for more than 300 years. The people of this nation struggled against great odds to establish their homeland as a free, independent state. Repeatedly their efforts were blocked by their neighboring states. When they finally succeeded, in 1918, it was to be for a heart-breakingly short period. Yet the people of this nation continue to believe in and yearn for freedom and independence.

Americans of Ukrainian descent, in Wisconsin and elsewhere in our Nation, look back through these 44 years to the time when their country was independent. All of us today know and admire their marvelous cultural attainments, their personal self-reliance and strength, and their devotion to freedom and independence. These are treasured American traits, as well. We are all the better for having them added to our national character.

The great Ukrainian poet, Taras Schevchenko, by his life and by his writings, reminds us all of the greatness and the unfulfilled hopes of his people. On this anniversary of Ukrainian independence, I salute his memory, and the memory of a nation, which though briefly independent, has left its mark on history.

## EXECUTIVE SESSION

The Senate resumed the consideration of executive business.

## DIRECTOR OF CENTRAL INTELLIGENCE

Mr. MANSFIELD. Madam President, I move that the Senate proceed to the consideration of the nomination of John A. McCone, of California, to be Director of Central Intelligence.

The PRESIDING OFFICER (Mrs. NEUBERGER in the chair). The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to this nomination?

Mr. MANSFIELD. Madam President, what is the pending nomination?

The PRESIDING OFFICER. The nomination of John A. McCone, of California, to be Director of Central Intelligence.

Mr. MANSFIELD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. MANSFIELD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCARTHY. Madam President, in introducing this nomination to the Armed Services Committee, the chairman of the committee, the Senator from Georgia [Mr. RUSSELL], said with reference to the Office of Director of the Central Intelligence Agency:

> This office is perhaps second only to the Presidency in its importance.

Certainly it is.

This is one of the most important confirmations which the Senate is called upon to make. In my opinion, it ranks in importance ahead of most Cabinet confirmations for several reasons: the importance of the work of the CIA, the relative freedom of action given the head of the CIA and to his subordinates, and the lack—a very serious lack—under existing practice, of any continuing direction or of effective review of CIA activities by the Congress.

I have in the past supported and advocated establishment of a joint committee of the Congress to exercise continuing supervision over the activities of the CIA, somewhat in the same manner that the Joint Committee on Atomic Energy operates. If such a committee existed, the choice of the head of the CIA and Senate confirmation would not be so critical as it is.

There is no regular or normal procedure in existence or in use today by which committees of the Congress are consulted or informed of CIA activities. During a discussion of a proposed Joint Committee on Central Intelligence on the floor of the Senate on April 9, 1956, the Senator from Montana [Mr. MANSFIELD] asked:

> How many times does CIA request a meeting with the particular subcommittees of the Appropriations Committee and the Armed Services Committee.

The Senator from Massachusetts [Mr. SALTONSTALL], a member of both committees, replied:

> At least twice a year that happens in the Armed Services Committee and at least once a year it happens in the Appropriations Committee. I speak from my knowledge during the last year or so.

Obviously there is no regular procedure. Certainly there is no indication of any kind of current and continuous supervision and consultation.

Intelligence activities raise special problems and need special attention. I would like to quote significant passages from an article by Harry Howe Ransom in the New York Times magazine, May 21, 1961:

> Central Intelligence today has three principal functions: intelligence collection, its analysis and communication to policymakers, and clandestine foreign political operations. The increasing necessity of these activities is attributable to three major reasons.
>
> From earliest times, an intelligence apparatus has been an indispensable part of the paraphernalia of a great world power. The worldwide responsibilities of the United States today require both a system for keeping the complex details of world politics under constant surveillance and an instrument for secret foreign political action.
>
> A second reason is that national policy decisions are based, increasingly, upon predictions of foreign political, economic, and military developments 5 to 10 years hence. This fact is a consequence of the long lead-time in developing weapons systems and of the need to make economical use of finite resources to implement long-range foreign policy objectives.
>
> Consequently, an intelligence system today is asked an incredibly wide range of urgent questions, answers to which can be obtained sometimes only by devious methods. When will Communist China test an atomic device? What future has the economic integration of Europe? How stable is the Government of South Vietnam? What course will Sino-Soviet relations take?

These are among the questions to which Mr Ransom has pointed as examples of the kinds of things Central Intelligence is expected to be concerned about and on which it is expected to make some judgments and some recommendations.

> A third reason derives from modern military-technological developments. Intelligence, it often is said, has become the first line of defense. Accurate and rapidly transmitted information is an absolute requirement for an effective strategy of deterrence. Strategic striking forces must have an accurate dossier of potential enemy targets. And essential elements of information always must be available to thwart an enemy's possible surprise knockout blow.

He continues with these words:

> Short of declared war, however, secret operations are widely regarded as a dirty business, unfitting America's open, democratic—and formerly isolationist—society. Events of recent years have, nonetheless, revealed to the public at least the top of the iceberg of a vast secret intelligence program.
>
> Distasteful or not, secret operations have become a major underground front of the cold war. The accelerating pace of cold warfare in Laos, South Vietnam, Thailand, the Congo, Latin America, and elsewhere increases the pressure for greater American involvement in the secret "black arts."
>
> One's attitude toward these activities will depend, finally, upon one's assessment of contemporary international politics and of the requirements for the common defense. President Kennedy recently declared that the cold war has reached such a stage that "no war ever posed a greater threat to our security." If they take that as a valid assessment, most Americans will assume, although doubtless with misgivings, a wartime attitude toward secret operations.
>
> Whatever one's view, the existence of a secret bureaucracy poses special problems in the American system of government. Knowledge is power. Secret knowledge is secret power. A secret apparatus, claiming superior knowledge and operating outside the normal checkreins of American democracy is a source of invisible government.

I suggest that this is a most significant statement in the article by Harry Ransom.

He continues:

> How then can the controls of a democratic system be imposed upon the intelligence sys-

tem while maintaining the secrecy required for its successful operation? Secret operations must remain immune from some of the normal checks, especially publicity. Heavy dependence must be placed upon politically responsible officials to exercise control.

In a parliamentary democracy, such as Great Britain, the problem is less acute.

The problem is less acute in Great Britain than it is under our system of government.

He continues:

Parliamentary government unifies executive and legislative responsibility under majority-party leadership. When Ministers are also Members of Parliament, responsibility for management of secret functions is reinforced.

British intelligence services, too, are so organized that secret political operations overseas are entirely separate from political and military intelligence functions. An agency for secret operations is supervised by a special Cabinet subcommittee. The point is that all are under firm political authority.

This essay describes the situation in British intelligence activities. The control of the actvity and the direction of it is quite different from that which exists in the United States today.

Charles Wilson, as Secretary of Defense, described this danger at a press conference in 1957 with these words:

You see, what I get for my purpose is an agreed-on intelligence estimate. I have to take that, or I would have to bore through an enormous amount of detail myself to try to say that they were wrong or right. I accept what they say.

The statement or comment by Charles Wilson indicates one of the fundamental problems, namely, that original intelligence estimates or decisions which are made at a relatively low level begin to move through channels and to pick up momentum as they move along until, at the point of final decision, it is extremely difficult to change the direction or to bring a movement or an action to a halt.

Hanson Baldwin, as military commentator for the New York Times, wrote in his column of January 15, 1956:

If war is too important to be left to the generals, it should be clear that intelligence is too important to be left to the unsupervised.

Walter Lippmann, looking at the same problem from a slightly different point of view, wrote soon after the recent change of personnel in the State Department that reform of the CIA should seem easier and more necessary.

For—

He said—

the CIA should cease to be what it has been much too much, an original source of American foreign policy. That is what has gotten it into trouble, and that is what needs to be cured.

Mr. Allen Dulles once said:

In intelligence you have to take some things on faith.

I acknowledge the truth of this, but also acknowledge and insist that faith is no excuse for lack of knowledge or for failure to seek out facts; nor should it be accepted as a convenient device for shunning responsibility.

If Walter Lippmann, Harry Ransom, Charles Wilson, and Hanson Baldwin are right, Congress must be concerned since it, along with the President, has responsibility for determining foreign policy.

In any case, the head of the Central Intelligence Agency will take on great responsibilities and acquire great powers which, at least insofar as Congress is concerned, he can exercise with little or no supervision. Under the law, he can withhold titles, salaries, or numbers of personnel employed by the Agency. He can approve the entry into the United States of certain aliens and of their families, subject to concurrence of the Attorney General and the Commissioner of Immigration and Naturalization. He will have authority to expend funds without regard to the provision of law and regulations relating to the expenditure of Government funds on vouchers certified by him alone.

These are unusual powers, and powers which Congress traditionally has not yielded easily. But they are, I think necessarily granted in this case.

A part of the CIA's work is the preparation of the national intelligence estimates which are used as important guides in the formulation of foreign and defense policy. The CIA is an evaluator as well as a collector of facts. This agency should find and present the facts as they are and interpret them with full objectivity.

The Director of the CIA is Chairman of the U.S. Intelligence Board. Other members represent the Defense Department; the intelligence components of the Army, Navy, and Air Force; the National Security Agency, the Atomic Energy Commission, the FBI, the Joint Chiefs of Staff, and the State Department.

The head of the CIA briefs the National Security Council at each of its meetings and is always asked to remain for the ensuing discussion.

Customarily, at least, he is asked to remain for the ensuing discussion.

Although the head of the CIA is not a member of the NSC, he does remain and participates in the discussions.

What is the statutory or legal basis for the operation of Central Intelligence? Quoting again from the Harry Ransom article:

The CIA's functions are specified, broadly, by Federal statutes, defining the Agency as an instrument of the Presidency. The CIA's operational guidelines are some two dozen codified National Security Council intelligence directives, approved by the President. Actions such as the U–2 flights and the Cuban expedition must be approved specifically by the President. In the past he has had the advice on such matters of a special NCS subcommittee on clandestine operations.

A second potential check has been the President's eight-man Board of Consultants on Foreign Intelligence Activities. This was established early in 1956, after a Hoover Commission study expressed concern about the possibility of the growth of license and abuses of power where disclosures of costs, organization, personnel, and functions are precluded by law.

The first chairman of this group, composed largely of distinguished industrialists and former armed services officers, was James R. Killian, Jr., then president of the Massachusetts Institute of Technology. President Kennedy recently reappointed Dr. Killian to the chairmanship of a reconstituted board after a 2-year interval in which Gen. John E. Hull, retired Army officer, presided.

Central Intelligence is subject today to three major criticisms. They involve questions of control by responsible authority, the efficiency of existing organizations, and the problem of secrecy.

We attempt to determine how much should be kept secret, how much information should be made available to the public, and how much should be made available to Congress itself. It is true that the Central Intelligence Agency officially operates under Presidential directives and is supervised in a general way or checked upon by interdepartmental groups from the National Security Council. They participate in both interpreting intelligence data and in authorizing covert operations. But the principal intelligence adviser and the highest authority remains the Director of Central Intelligence, who is armed with extraordinary secrecy inside the Government and with a secret budget.

I think we must acknowledge that ours is a government of laws and not of men, in one sense, but we must acknowledge, too, that this is a government of men as well as of laws, and in the important positions of policy determination, and in originating ideas in the field of foreign policy, there is certainly a flow of authority from the President down and there is also a flow from those appointed by him or who are put in important positions of trust and decision upward through the channels to the President himself.

Quoting further from Mr. Ransom:

In a complex world of fast-moving events and in a Washington intelligence community where CIA professionals are increasingly influential, too few sources of countervailing power exist. This particularly is a problem with covert operations in which the Presidency is largely dependent upon the CIA for information on what is being done or what needs doing. The danger of self serving by the Agency is great. CIA may, without careful policy guidance, write its own ticket.

That is true of all Government agencies, and I see no reason to believe that it would not also be true of the Central Intelligence Agency.

Mr. DOUGLAS. Madam President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. DOUGLAS. I ask the Senator from Minnesota if he knows of any instances in which the Central Intelligence Agency has carried out in the field a policy directly contrary to the policy of the State Department.

Mr. McCARTHY. There have been a number of reported cases in which the Central Intelligence Agency activities were reported to be counter to what the State Department advocated. In other cases the Agency carried on a policy without any direction or knowledge on the part of the State Department.

Mr. DOUGLAS. Does the Senator from Minnesota remember the speech which Colonel Nasser delivered at Alexandria, Egypt, in July 1956, I believe?

Mr. McCARTHY. Yes; I do.

Mr. DOUGLAS. Is it not true that in that speech Colonel Nasser said that a high representative of the U.S. Government had come to him and said that the State Department was sending out Mr. George E. Allen, who later became Ambassador to Greece, to make a protest to him about some of his actions in connection with the Suez Canal, and that this high official of the American Government then told him to pay no attention to Mr. Allen and to disregard what he said? I do not believe I have the clipping with me concerning the incident, but I am certain that Nasser followed out that advice, and at one time said he was tempted to kick Mr. Allen downstairs.

In November 1956, when I was in Cairo, I thought the man in question was probably the former Ambassador to Egypt, Mr. Byroade, who was transferred from Egypt to the Union of South Africa. But I found upon inquiry—and I believe this information has since been confirmed—that it was not Mr. Byroade at all but a regional representative of the CIA who bears the name of a famous American family.

Does the Senator from Minnesota know anything about that incident?

Mr. McCARTHY. I am familiar with the story. So far as I know, there has been—and perhaps this is in keeping with the operation of the Agency—no attempt to repudiate or to deny essentially the story that the Senator has related, which has been about for a long time.

Mr. DOUGLAS. I checked very carefully with the Embassy in Cairo. Representatives of the Embassy were united in saying that it had not been Mr. Byroade—but it had been the regional representative of the CIA. Whether that action was taken without the knowledge of the Director of the Central Intelligence Agency, which I suppose may well have been the case, is it not in all probability an illustration of the CIA and the State Department moving exactly at cross purposes in a very crucial situation?

Mr. McCARTHY. It would certainly be an example of what the Senator suggested. Since the Senate has a particular responsibility in the determination of the policies to be carried out by the State Department, we need to be particularly concerned to be sure that Central Intelligence is not carrying out a contrary policy. I am sure the President and the State Department, too, representing the executive branch of the Government, also need to be concerned.

Mr. DOUGLAS. Is it not true that in that case the advice which was supposedly given by the CIA made Colonel Nasser much more intransigent than he would otherwise have been which helped to aggravate the crisis over Suez?

Mr. McCARTHY. That was certainly the interpretation which was placed upon the reported incident.

Mr. SYMINGTON. Madam President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. SYMINGTON. It is true, is it not, that the Director of the Central Intelligence Agency and the Secretary of State both report to the President of the United States?

Mr. McCARTHY. Yes.

Mr. SYMINGTON. The distinguished Senator from Minnesota would not wish to saddle on any new incumbent to the position of Director of the Central Intelligence Agency any possible mistakes of the past, as outlined by the Senator from Illinois, would he?

Mr. McCARTHY. I do not think the remarks of the Senator from Illinois could be interpreted as putting any burden of guilt upon the newly named head of the Central Intelligence Agency, or even on the former head of the Central Intelligence Agency.

Mr. DOUGLAS. Madam President, will the Senator yield?

Mr. SYMINGTON. Madam President, may I pursue my inquiry further?

Mr. McCARTHY. If I may finish, the remarks of the Senator from Illinois were addressed to the question of certain procedural relationships, and were by way of illustration of a possible situation in which both the President and the State Department, as well as Congress, would have been called upon to face an action which neither had really approved.

Mr. SYMINGTON. Madam President, will the Senator yield?

Mr. McCARTHY. I yield to the Senator from Missouri.

Mr. SYMINGTON. If President Kennedy believes, as apparently both my distinguished friends from Minnesota and my friend from Illinois believe, that some things have not gone well in Central Intelligence, there would be no criticism of the President for attempting to improve the management of the Central Intelligence Agency through change in the management, would there?

Mr. McCARTHY. No, on my part, I am sure there would be no such criticism, and I think in this case I could likewise speak freely for the Senator from Illinois [Mr. DOUGLAS].

Mr. SYMINGTON. I thank the Senator.

Mr. JACKSON. Madam President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. JACKSON. I wish to clarify one point. There seemed to be some implication that there is a lack of constitutional control over the head of the CIA. Did I correctly understand the Senator?

Did I understand correctly that the Senator meant to say that?

Mr. McCARTHY. I have been trying to say that for 2 weeks.

Mr. JACKSON. Wherein is there a lack of constitutional control? It may not be what it should be, but wherein is there a lack of constitutional control?

Mr. McCARTHY. I raised four or five areas in which I thought serious question could be raised as to whether there was constitutional justification or treaty justification or justification under any action taken by Congress or concurred in by Congress. I made reference to action in Iran against Mossadegh.

Mr. JACKSON. I do not wish to talk about individual instances. I do not believe we should, frankly, in public discuss some of these matters, whether they are true or false.

The Senator referred to the British system. I must say that under the British system only the Prime Minister knows who is the head of intelligence. They do not discuss these matters in the House of Commons. Insofar as we discuss this subject I believe we ought to follow the ancient rule of intelligence that silence is golden.

When we criticize specific intelligence operations in open session, we are ourselves guilty of a lack of understanding of the problem. Certainly these details should not be discussed on the floor of the Senate. Of course we can talk about constitutional control. As I say, there may be an opportunity to improve the operations of intelligence, but details with respect to intelligence should not be discussed on the floor of the Senate.

The head of Central Intelligence reports to the President. Congress does supervise the Agency. There is a question whether Congress has done the kind of job of exercising control at times that it should have done in that connection. Perhaps this control can be improved.

But the head of CIA is under the President, and responsible to him, and he does report to the National Security Council. Therefore, I do not understand the contention that there is no constitutional control.

Also, there is congressional control. Whether that control is what it should be is another question. However, I do wish to emphasize that we should be careful when we discuss in public any specific activities of CIA. Such discussion may be unwittingly giving aid and comfort to the enemy, in a sense.

Mr. DOUGLAS. Madam President, will the Senator yield?

Mr. JACKSON. In the sense, I mean, when we speak of specific examples of intelligence activities. These are things that can be used against us.

Mr. DOUGLAS. Madam President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. DOUGLAS. I merely called to mind a speech which Colonel Nasser made at Alexandria, and which was blazoned to the world. There was no secret about this. The statements in that speech have never, so far as I know, been denied in the slightest degree. They tended to reflect badly upon the diplomatic service. Upon investigation, however, the evidence became clear that it was not the diplomatic service which was at fault, but the local, regional representative of the CIA. Therefore, I was not betraying any secrets with respect to any matters which were not already known, but indicating where the responsibility lay.

Mr. JACKSON. I have the utmost confidence in the junior Senator from Minnesota. I merely say that if we get into any of these illustrations, like the situation in Egypt, we give authoritative affirmation or denial by someone in Government, and that is later used in certain places against our Government.

This is what we must be careful about. That is my only observation.

There is plenty of room for a proper discussion of the organizational structure of CIA. However, I believe we should be careful about dealing with particular activities.

This is my opinion. I have the utmost respect and confidence in the Senators who have raised this issue.

Mr. McCARTHY. I appreciate the admonition.

Mr. JACKSON. I do not know of anyone who has been more conscientious and sincere in trying to bring about proper control over the activities of the Central Intelligence Agency than the junior Senator from Minnesota. I know that the Senator from Illinois likewise is taking a keen interest not only in this matter but in all matters affecting national security. I wanted to make these observations for our own good. I know that my comments will be taken in that spirit.

Mr. SYMINGTON. Madam President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. SYMINGTON. I agree with the main precept of the distinguished Senator from Washington. I am a member of two of the three committees to which the Central Intelligence Agency reports in the Senate, and have heard something of this story with different interpretations. I do not know which is true. I do submit for the Senator's consideration the fact that whether or not it is true the Central Intelligence Agency, because of its character and type as indicated by the Senator from Washington, will not have a chance to give its side of the story from the standpoint of what happened in 1953, I believe it was——

Mr. DOUGLAS. Nineteen hundred and fifty-six.

Mr. SYMINGTON. I was in Cairo the latter part of October or first part of November of this year. I thought that the Agency's operation, from what I heard, was satisfactory at that time. In any case, Mr. Dulles, the former head of CIA—and this is true of any other member of CIA—will not have a chance to affirm or deny whether statements made this afternoon on the floor of the Senate are correct or not correct.

Mr. JACKSON. Madam President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. JACKSON. The Senator from Missouri has raised a pertinent point. In order to have an authoritative denial or statement from the Agency, the Agency would have to enter public discussion, which would itself be an improper operation of the Agency. That is my point.

The Senator very properly raises some questions which are obviously of proper concern of Congress. His interest in making sure that there is appropriate constitutional control, and more effective and adequate control, and reporting by the appropriate committees of Congress, is a very worthy subject for Congress to consider, and I commend him for what he has done in this connection, not only for what he has done today, but what he has been doing for several years now.

Mr. McCARTHY. I thank the Senator from Washington and the Senator from Missouri for their observations and comments, and for the questions they have raised. For myself, I would say I have not been particularly critical of the Central Intelligence Agency for its operation in the way of its intelligence gathering. I think that perhaps they have been unjustly criticized by some Members of Congress and perhaps in the public judgment that has been pronounced upon them. I do believe, however, there is involved here a fundamental juridical question. The Constitution establishes the responsibility of Congress with respect to the determination of foreign policy, at least major foreign policy, and with respect to that determination there was a time that we in Congress could do this by ratifying treaties. We no longer can operate effectively by the treaty route. We still have the responsibility with regard to the declaration of war, but we no longer declare war. We fight police actions and we carry on what are called cold wars.

Does this mean that because of a changed mode of political conflict Congress has lost any responsibility under the Constitution? Is that the situation, Madam President, or does it, rather, require that we give some thought to procedures? After all, we have a representative democracy, and in major decisions, whether domestic or international, some concurrence and some participation on the part of Congress has clearly been involved from the very beginning.

It was in connection with these points that I cited the practice in the British parliamentary system. I do not mean to say that every Member of Parliament was consulted. In the British system the Members of Parliament picked a cabinet on intelligence.

It may be said that this involves a very complex procedure. However, I do not believe it is so complex that we could not work out some procedures through which we could be satisfied that Congress had been consulted, or at least men picked by Congress had been consulted, and through them Congress had participated in some degree in these basic decisions. Even if we picked only men who had presented themselves for the Presidency, we could make up a full committee out of the Senate alone. The same kind of committee probably could be made up even of vice presidential candidates. We would have more on the committee than we needed, if we limited the committee to the usual choice of those who felt that they themselves could be entrusted with these important decisions.

Mr. SALTONSTALL. Madam President, will the Senator from Minnesota yield?

Mr. McCARTHY. I yield.

Mr. SALTONSTALL. As one who has been a member of two of the committees which have had to do with the Central Intelligence Agency for the last half dozen years, at least, I have felt that no information that we asked for was concealed from us. Whenever a suggestion was made as to whether there was anything more we should be told, or any information which we might need, we always received it. As one member of the committee, I have felt that we should give our very best possible advice and judgment to the Central Intelligence Agency if we felt it was not being properly administered or that the procedures were not being properly carried out.

This subject was argued several years ago, when Senator Barkley was a Member of the Senate and took a very active part in the discussion. I think that if the question comes up at the present time, as it has been raised by the distinguished junior Senator from Minnesota, we can discuss the question of procedure again, and we should. Certainly, as a member of the Committee on Armed Services and as a member of the Committee on Appropriations, I would welcome the appearance of the Senator from Minnesota before those committees in executive session to give us the detailed suggestions that he might have.

As the Senator from Washington [Mr. JACKSON] and the Senator from Missouri [Mr. SYMINGTON] have said today, the question, as I see it, is whether the gentleman who has been named for this position is qualified to hold it. That is the primary question before the Senate today. When a new man takes office, we can then consider the question of improving the management of the agency. I think the record will show that we discussed that question when the Senator from Minnesota was before the Committee on Armed Services.

Certainly we ought to make every effort possible to improve the Central Intelligence Agency in these very difficult times. However, I think the primary objective today is to determine whether the man who has been nominated is qualified, and to decide the question affirmatively or negatively. Then we can take up the question of procedure and determine whether the agency is fulfilling its duties. These questions can be considered by the committee in executive session, so that the intelligence can and will be kept on a level which will not result in the giving away of information, either through procedural discussions or in other discussions.

I appreciate what the Senator from Minnesota is seeking to do and wishes to do. As one Senator from the other side of the aisle, I certainly would be very glad to be helpful in trying to solve this problem, because I have heard the subject discussed for the last 6 or 8 years, at least, if not more.

Mr. McCARTHY. I thank the Senator from Massachusetts. The question of whether the nomination should be approved by the Senate depends, in my judgment at least, to a large extent on the nature of the role the nominee will fill. It depends on the nature of the authority he will exercise over the activities of the agency. For this reason, I think it is not exposure, exactly, because most of the procedures are quite well known; but at least a review of the way in which the Central Intelligence Agency is directed or is not directed. It is a question of whether or not there is a

kind of failure under the Constitution—as I think there is—in that Congress is not fully enough involved in preliminary decisions of major consequence, such as going into Iran or Cuba, or some of the other areas in which the CIA is supposed to have been very active. These facts, these questions, have a bearing upon whether or not the nomination should be confirmed. If the Director's role is very limited and is carefully supervised, then we should not impose the same standards of judgment upon him. However, if he is to be given a great deal of supervisory authority, then I think the qualifications of character, and such things as that, takes on additional importance. It is for that reason I had hoped to establish a kind of general pattern upon which the membership of the Senate might make a solid judgment with regard to the nominee.

Mr. SYMINGTON. Madam President, will the Senator from Minnesota yield?

Mr. McCARTHY. I yield.

Mr. SYMINGTON. Would not the distinguished Senator from Minnesota agree that the amount of authority and responsibility which the Director of the Central Intelligence Agency ought to have, and would have, would be the decision of the President of the United States?

Mr. McCARTHY. It would depend in large measure upon the President of the United States; yes.

Mr. SYMINGTON. The Senator has mentioned character. Would he not agree that the question of character, as well as the question of ability, would both be one, which the President of the United States would want to consider very thoroughly before he submitted a nomination of this importance to the Senate for approval.

Mr. McCARTHY. I am sure that is so; and I am certain the President has made a careful examination, according to his lights, of the qualifications of the nominee. At the same time, there is a clear obligation imposed on the Senate to pass an independent judgment. The Constitution provides that this shall be done. So I do not think we can feel that we are in any way offending the President or the office of the Presidency in taking a thorough, careful look at any nomination which the President sends to the Senate for confirmation.

Mr. SYMINGTON. Is it not true that nominations of Mr. McCone have been before this body twice in the past, once under a Republican President, and once under a Democratic President; that the nominee was examined carefully with respect to his holdings, his character, and his ability; and that both times his nomination was confirmed unanimously by the Senate for public office?

Mr. McCARTHY. So far as I know, that is true.

Mr. SYMINGTON. I thank the Sen-

McCARTHY. But we are now be- asked to confirm his nomination to another office, one which the chairman of the Committee on Armed Services has described as second in inmportance to the presidency. If that is the case—and I think it is very close to being the case—again we need to make a more careful examination of the nominee than we would if he were being appointed to some other position. We might have a man who is a fine drummer, but that would not qualify him to play first violin. I think there is a little of this kind of sensitivity or complexity involved in the performance of the directorship of the Central Intelligence Agency.

The question of supervision and direction, and of the effectiveness of them, on the part of the executive branch of the Government has been raised by a number of special committees and a number of special inquiries.

Harry Ransom, in the article to which I referred earlier, said:

> In its 6 years of existence, the President's Board of Consultants on Foreign Intelligence Activities, recently renamed the Foreign Intelligence Advisory Board, has functioned more as a polite alumni visiting committee than as a vigorous .watchdog. With one professional staff assistant and a single secretary, the board has been able only sporadically to oversee the 15,000-man CIA. Congressional surveillance has been much the same.

Theoretically, the President—with occasional help from consultants—controls this powerful, huge, and expensive Central Intelligence Agency. But the President is the nominal head of hundreds of agencies; he cannot be kept fully informed at all times of the activities of the CIA. Consequently, very great powers are vested in the Director of Central Intelligence. How these powers have been used and how they are likely to be used are most important questions. Has the CIA in the past carried out actions without constitutional justification, without the authority of statute or of resolution or of treaty commitments? Whether these activities or operations turned out well or badly, whether in the long run or in the short run they advanced or improved the position of the United States is secondary to the basic question of legality or constitutionality of procedure.

We in the Senate need to be concerned about the propriety of the procedure. The Central Intelligence Agency was credited with having helped oust Mossedegh from the premiership of Iran in 1953. History has not yet demonstrated that that was the wisest policy, and probably never will.

Mr. SYMINGTON. Madam President, will the Senator from Minnesota yield?

Mr. McCARTHY. I yield.

Mr. SYMINGTON. I thank the able Senator from Minnesota.

As chairman of the Subcommittee on the Middle East and Southeast Asia, I spent considerable time in Iran last fall. I agree with the Senator from Washington [Mr. JACKSON]—and believe this was mentioned when the Senator from Minnesota was before the committee—namely, that it would have been a mistake if Mossadegh had continued in that position.

I have been following the reports, including classified reports with respect to Iran; and developments there with respect to the new Prime Minister. I cannot see how this discussion can be of service to the United States.

I also mentioned, when the Senator was before the committee, that I doubted the CIA took credit for the overthrow of Dr. Arbenz as President of Guatemala, because our Ambassador to Guatemala at that time told me personally he felt he had had the most to do with it.

Mr. McCARTHY. I do not question really whether the CIA did it or whether the ambassador did it. The question of the justification for the action in terms of some juridical basis remains open to question, in either case. I am not saying that the CIA in either of these cases was operating independently or without approval by the State Department. But this basic question would run to it, regardless of whether the action was carried out or participated in by the CIA or without its participation. The fundamental juridical question of control would exist even though the Central Intelligence Agency was not involved in those activities, in which there was some involvement on the part of our Government itself.

Similar questions have been raised with regard to Vietnam, and also of course more recently in regard to our support of the invasion of Cuba, last year. The basic question of the justification remains—regardless of whether we have success or whether we have failure—in regard to some of these operations and some of these activities.

Madam President, I think the Constitution quite clearly provides that Congress shall have a part in declaring war. However, as I have already said, in the modern world, war is seldom declared, instead, there are defensive actions and police actions. Nevertheless, the Constitution still provides, in my opinion, that the Congress has a definite responsibility in connection with such actions or actions to continue or to overthrow the governments of other nations.

Congress has acted to give the President authority through the United Nations. It has granted him wide authority under the NATO treaty, and somewhat less clearly under the SEATO treaty. The Congress approved the Middle East resolution in anticipation of the Lebanon action.

I believe there is a constitutional need for consultation with Congress by the President or by his agents and, beyond that, for some expression of concurrence or some manifestation of concurrence by Congress or by men chosen by the Congress to speak for it, somewhat more clearly and more positively than is provided for under existing law or under existing practice. A joint committee may not be the best means. Perhaps some other device could be developed. Perhaps we could fix greater responsibility on the Armed Services Committee, and could say to it, "You are to speak for us and to represent us, and we expect that you will be consulted and that there will be conferences and consultations with you." Or we could say that this shall be taken care of by the Foreign Relations Committee and the Foreign Affairs Committee, which have been chosen by Congress, and we could specify such respon-

sibility for them, and could give formal approval to their participation and concurrence. But that has not been done.

Mr. GRUENING. Madam President, will the Senator from Minnesota yield?

Mr. McCARTHY. I yield.

Mr. GRUENING. Has it occurred to the Senator that possibly the nomination should be referred to the Foreign Relations Committee? As Mr. McCone has testified, his task as he sees it is merely to receive reports from all over the world and to evaluate them. In that case—if he is prophesying correctly—then his task ceases to be a cloak-and-dagger operation as it has in part been, and becomes merely a source of information and guide to our foreign policy-makers. Therefore, would not it be more appropriate for the Foreign Relations Committee, rather than the Armed Services Committee, to pass on this nomination?

Mr. McCARTHY. I think one could make a strong case for that.

The activities of the Central Intelligence Agency are more in the realm of areas in which the Foreign Relations Committee exercises jurisdiction. Of course it is true that the CIA was established by legislation which was handled by the Armed Services Committee, and that in fact the Central Intelligence Agency more or less continues intelligence activities which were developed in various branches of the armed services, for the most part during the war. So there is that legislative background and there is that tradition. Therefore, I suppose one could argue either way—that there is this tradition and there is this precedent which would justify referring the nomination to the Armed Services Committee, and that there are also the activities of the CIA, in its operational aspects, which I think relate to matters which are carried on more in the field of foreign policy, rather than in the field of military operations. So the question is a mixed one.

Mr. JACKSON. Madam President, will the Senator from Minnesota yield again to me?

Mr. McCARTHY. I yield.

Mr. JACKSON. I wish to add to what the Senator from Minnesota said in response to the question asked by the Senator from Alaska, namely, that the other intelligence undertakings by the Army, the Navy, the Air Force, and the Department of Defense, make up the intelligence community, and the Director of the Central Intelligence Agency is chairman of the Intelligence Board and is the coordinator of all of these. So there is a heavy military overtone which by tradition and custom has always been a part of the responsibility of the Armed Services Committee, and, prior to its creation, part of the responsibility of the Military Affairs Committee.

Mr. SALTONSTALL. Mr. President, will the Senator from Minnesota yield?

The PRESIDING OFFICER (Mr. LONG of Missouri in the chair). Does the Senator from Minnesota yield to the Senator from Massachusetts?

Mr. McCARTHY. I yield.

Mr. SALTONSTALL. I should like to say to the Senator from Alaska [Mr. GRUENING] if I may, that the CIA was set up as a follow-on of the OSS, which conducted our intelligence activities during the war.

As the Senator from Washington [Mr. JACKSON] has stated, the CIA is a civilian agency which collaborates and cooperates with the three military services, and—in addition to what the Senator from Washington has said—with the State Department, in working out the intelligence information from various countries and giving it to the Chief Executive of our country—the President of the United States.

I was present and helped to draft the present CIA Act; and that was done, as I have said, to set up this agency to collaborate with the inteligence agencies, particularly of the military, in time of peace, because we felt that at that time the OSS—which I think was never established by law, but was established by Executive order—had ceased to function, because the fighting part of the war was over. I think I am correct in that statement. I know we drafted the CIA act with a great deal of care and with the intention of there being cooperation with the agencies which are strictly military agencies.

Mr. GRUENING. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield to the Senator from Alaska.

Mr. GRUENING. In commenting on the remarks of the Senator from Massachusetts, it should be noted, as the Senator from Massachusetts has pointed out, that the CIA is the successor of the OSS, which operated in time of war, and was, therefore, a cloak-and-dagger type of agency. Now, while it is true that there is now a state of undeclared war, a cold war of sorts, it seems to me that we certainly should look into the question of whether the Foreign Relations Committee should not have as much jurisdiction over CIA as has the Armed Services Committee.

Let us assume that that had been the case, so that during the last year the CIA had been reporting, to the extent it does report at all, to the Foreign Relations Committee instead of to the Armed Services Committee. I see present on the floor the distinguished chairman of the Foreign Relations Committee [Mr. FULBRIGHT], who had the wisdom to oppose the attempt to invade Cuba. Possibly, if the CIA had consulted him and had obtained his views, we might not have participated in that tragic error.

As I stated before, it seems to me, in view of the fact that Mr. McCone has declared that his function, as he sees it, will be merely that of collecting information all over the world and evaluating it, which is distinctly a matter of foreign relations more than it is anything else, certainly the Foreign Relations Committee should have as much jurisdiction over CIA's activity rather than Armed Services, notwithstanding that the jurisdiction was originally placed in the Armed Services Committee. Or perhaps even better there should be joint jurisdiction of both those committees.

I hope that before the consideration of this question is concluded, Congress will have the wisdom to create an oversight committee, by which the Foreign Relations and Armed Services Committees may monitor and control this now completely uncontrolled agency which is now responsible to no committee of Congress and is unique in that respect, wielding a responsibility and power which is absolutely unrivaled in our democracy, a power which is vested in a man who as head of CIA, according to the chairman of the Armed Services Committee, the distinguished Senator from Georgia [Mr. RUSSELL], is second only in importance to the President in the power he wields.

To allow such power to go unrestricted and without any reference to the committees of Congress which have supervision over foreign relations, when, in effect, CIA will be reporting on foreign affairs in many countries all over the world, both inside and outside the Iron Curtain, seems to me to be wrong.

I hope, before we conclude, some action will be taken by Congress so that it may have some supervision over the agency, with whatever restrictions are necessary to protect the national security.

Mr. SALTONSTALL. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. SALTONSTALL. I may most respectfully say to the Senator from Alaska that today the CIA is responsible to the Committee on Armed Services and it is responsible to the Commitee on Appropriations. Certainly the past Director of that Agency reported at least two or three times each year to those various commitees. Therefore, those committees, or certain members of their subcommittees, have entire knowledge of the activities of the Agency, the extent of the organization, and the cost of the organization.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. BARTLETT. Am I correct in my assumption that the Senator from Minnesota, notwithstanding that which has been said most recently by the Senator from Massachusetts, believes that there ought to be closer supervision by the Congress over the activities of the CIA?

Mr. McCARTHY. Yes, that is the opinion of the Senator from Minnesota.

If I may respond to the Senator from Massachusetts, I think the basic legislation which was enacted and which was developed in the Armed Services Committee was sound legislation in terms of the concept of the Central Intelligence Agency at the time that law was drafted. One of the points I raised is that the Central Intelligence Agency, in its operations at least, is carrying on activities which are far beyond what was contemplated in that legisaltion when it was drawn. It is not a question, really, of only CIA, but a question of whether or not CIA performs functions which [illegible] in a sense, uncovenanted. The question runs to the functions of the Department. The CIA seems to be the principal agent in these more or less unjustified, at least juridically unsustainable actions. So at a time when we are considering confirmation of the employment of the head of the Central Intelligence

Agency, I think we should consider this question.

Mr. BARTLETT. Acknowledging that there might, and probably would, be 99 other opinions as to what ought to be done, is it the Senator's conclusion that this closer supervision might best be obtained by the establishment of a joint committee?

Mr. McCARTHY. I said earlier in my remarks——

Mr. BARTLETT. I am sorry I was not here at the time.

Mr. McCARTHY. I shall be glad to repeat the statement, with some additional remarks. I am not satisfied that a joint committee is best to accomplish the purpose I have referred to. First, however, I do not know of any better method that has been proposed. Second, we have had rather good experience with the Joint Committee on Atomic Energy. I am sure the Senator will recall that, when that committee was established, charges were made that Members of Congress could not be trusted with this kind of information, that there would be leaks, and that Congress could not exercise continuing supervision over activities as involved and as technical as those in the atomic energy field. Yet I think the record bears out the statement this Joint Committee has worked out reasonably well. I think it would perhaps not be out of turn to say that it could be tested in other areas and other jurisdictions.

Mr. BARTLETT. If the Senator will permit me one further observation, and perhaps a question, the Senator has mentioned that there has been an implication that the whole Congress cannot be trusted with secrets relating to the CIA and the Atomic Energy Commission. I wonder how far down, in the Senator's opinion, this information could be safely disseminated. We live in a strange world. In days gone by, I suppose every Member of Congress could ascertain everything about every Government agency. Whether it should be done or not, it is not being done now.

I wonder if the Senator has any idea as to where the cutoff point might properly come.

Mr. McCARTHY. As the Senator knows, we are held responsible for everything done within the Government, even though oftentimes we do not have much authority over what is done. It is considered ill-advised to admit that we do not have as much responsibility as we seem to have. But it is my opinion that we could to some extent bridge the gap between responsibility and real power or effective access of power related to our responsibilities if we, the Congress, could determine that these particular persons could be trusted, in the same way as in England members of Parliament pick members for the cabinet out of their own parliamentary body, and those persons direct intelligence activities.

Mr. BARTLETT. As it is now, those secrets would be reposed in those belonging to a certain committee or committees and from the vantage point of seniority. Is that a correct evaluation of how it is?

Mr. McCARTHY. I would not say necessarily that it should be by seniority.

Mr. BARTLETT. No. I say that is the way it is done now.

Mr. McCARTHY. Seniority has some bearing on it; I really do not know about that. However, evidently the determination of who should be given this information is not a determination made by Congress except in rather vague language of the act which established the CIA, but it is primarily a kind of selective determination by the executive branch of the Government itself.

Mr. BARTLETT. In summation, then, I might remove myself from this colloquy by stating that the Senator entertains the belief that if some Members of Congress can be trusted with the awesome secrets relating to atomic energy so might other Members of Congress, constituting a joint committee, be entrusted with the secrets having to do with the CIA.

Mr. McCARTHY. I think the Congress is deserving of a test in several other areas.

Mr. BARTLETT. We should give the Congress a try?

Mr. McCARTHY. Yes. I do not like to repeat my good lines, but I suggested earlier if we had doubts we could limit the appointees to this committee and select them only from men named as possible presidential candidates.

Mr. BARTLETT. That is a line worth repeating.

Mr. McCARTHY. I thank the Senator from Alaska. He generally appreciates my good lines. I thought I might risk stating that once again.

Mr. GRUENING. Mr. President, will the Senator yield to me so that I may ask the senior Senator from Massachusetts a question?

Mr. McCARTHY. I yield.

Mr. GRUENING. My good friend, the senior Senator from Massachusetts, the ranking minority member of the Committee on Armed Services, said a few minutes ago that the Committee on Armed Services more or less supervised the CIA, and that the CIA reported to the committee. What is the extent of the report? Do the committee members go into any details, or are they merely given a brief summary of expenses, the number of people employed, and so on?

Mr. SALTONSTALL. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. SALTONSTALL. I say on the floor of the Senate that we spend several hours and go into many details of operations, of expenses, of administration, and so on. I would not wish to say more on the floor of the Senate.

I say as one member of the committee—I speak only for myself, but I think I can speak for the others also—we have never been refused any information of any character for which we have asked.

Mr. McCARTHY. If I may have the attention of the Senator from Massachusetts, I should like to ask a question.

The Senator would not say, however, would he, that the committee exercises a kind of continuing supervision in any way comparable, let us say, to what the Joint Committee on Atomic Energy exercises in its field of jurisdiction?

Mr. SALTONSTALL. I would say that we could do more than we have done if we felt it were necessary to do it. There has never been any limit of supervision, so to speak, placed upon our efforts by the past Director of the CIA, and I am sure none would be placed on us by the future Director of the CIA. I have never heard of any limitation that was put upon us.

Mr. GRUENING. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield to the Senator from Alaska.

Mr. GRUENING. Does the Senator from Massachusetts realize that in certain countries the CIA operates with complete independence of the Chief of Mission, and that our diplomatic representatives are not even informed of what the CIA agents are doing in the country?

Mr. SALTONSTALL. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. SALTONSTALL. I would deny that. I would deny that, but I would prefer not to say anything more on the floor of the Senate. I should be glad to discuss it with the Senator from Alaska in conversation, as to what I do know.

Mr. GRUENING. Well, I have been so informed by a responsible member of the diplomatic service in a country where this particular situation exists.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield to the Senator from Arkansas, the chairman of the Committee on Foreign Relations.

Mr. FULBRIGHT. I have not studied this as much as has the distinguished Senator from Minnesota. Does the existing law specifically require the CIA to report to the Committee on Armed Services?

Mr. McCARTHY. I think it does. At least, it is implied that they should be in some way responsible. At least, the practice has been for the CIA to report to the Armed Services Committee.

Mr. FULBRIGHT. I did not ask the Senator for the practice.

Mr. McCARTHY. We shall have to ask the Senator from Massachusetts.

Mr. FULBRIGHT. I am asking for information as to what the law itself does require by way of reporting to any committee. I am not informed as to that.

Mr. McCARTHY. We should have to ask the Senator from Massachusetts, who is a member of the committee and helped to draft the law. My opinion is that the CIA really is required to report only to the President. We can check the statute.

Mr. FULBRIGHT. I ask the Senator whether he is going to discuss, a little later, the particular experience of the present nominee for this particular position, or whether that will be the subject of his talk?

Mr. McCARTHY. Yes. I intend to make some comments with respect to his qualifications and preparation for the position.

The man selected to head the CIA should, I believe, understand and appreciate the great powers which are given to him and be aware that, at least in the past, either on its own decision or with executive approval, the CIA has carried on activities which were of questionable constitutionality or legal justification. In my opinion he should be prepared to discuss these things in the proper surroundings.

He should realize, too, that in the future he may be called upon or challenged or tempted to conduct similar operations. The director of the CIA should be sensitive to the danger of such proceedings.

A man selected to be the head of the CIA should, if possible, be experienced in intelligence work. He should be a good administrator. He should have an adequate understanding and awareness of the problems of foreign policy, of the difficulties and complexities. He should be concerned—if we could have an ideal man—as to the ethics of the methods and means by which he, his agents, and operators seek their goals, either in the gathering of information or in carrying on what have come to be called "operations."

I shall not attempt a judgment or recommendation with regard to the question of experience in intelligence of the nominee, as there are no clear standards which can be applied.

The nominee has the reputation of being a good administrator. I am not prepared to challenge that. Nearly everyone whose nomination is sent to us has a reputation of being a good administrator.

The question of knowledge of foreign policy is one which can be passed upon only in very general terms and by very subjective standards. I would feel more confident in passing on this appointment if there were a more extensive record of the views of the nominee. He is, according to one columnist, hard boiled; according to the Economist, a man of temper; according to Newsweek, a tough man; according to the Wall Street Journal, hard driving.

These are not undesirable qualities in the head of the CIA. They are not the only good qualities possessed by the nominee, but they are the qualities which have been especially stressed in newspaper comment. Taken by themselves, they are not enough to qualify a person for this difficult and sensitive office.

The Director of the CIA should be more interested in finding evidence and passing objective judgment on it than in attempting to polarize opinions or to support a set position.

Mr. President, I quote again from the Henry Howe Ransom article:

> Secret intelligence must never be more or less than an instrument of national policy. Its control should remain primarily a responsibility of the Presidency, but Congress also must assume a more carefully defined and active surveillance role. And the Department of State, particularly, must be aggressive in weighing gain from success, against cost of failure, in every proposed major secret operation.
>
> A second major criticism is that the CIA places under one roof the separate functions of intelligence collection, its analysis and underground foreign political action.
>
> Those who would organize and carry out a proposed secret operation should be separated in the decisional process from those who supply and interpret information to justify the plan. * * *
>
> Planners and operational commanders notoriously come to view the plan as an end in itself. They gradually develop a state of mind that is receptive only to intelligence data that justify the plan's practicability. A distorted view of reality often results. * * *
>
> No greater challenge confronts American society than responding to the question of how the United States can engage successfully in protracted cold warfare without sacrificing the principles defended.
>
> As an open democratic society, the United States has to recognize its handicaps in some form of competition with the closed societies of totalitarian regimes. It would be unwise to attempt to match the proficiency of Communist regimes in subversion as the avenue to the attainment of national objectives. There is no point in America's fighting totalitarianism by imitating it.

That point brings me to the serious problem which faces the Senate, not only in this case, but in many other cases.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. SYMINGTON. The able Senator from Minnesota has read at length from an article, as I understand it, written by Mr. Harry Ransom, and published the 21st of May 1961. I have asked the chairman of the Committee on Foreign Relations, the Senator from Arkansas [Mr. FULBRIGHT], if he knows who Mr. Ransom is, and he says he does not. I have asked the ranking member of the committee on the other side of the aisle, who is on two of the three committees involved with the Central Intelligence Agency, if he knows who Mr. Ransom is, and he, too, says he does not. I confess to my able friend from Minnesota that I do not know who Mr. Ransom is either, and inasmuch as he is being quoted at such great length as an authority in this field, I would ask two questions.

First, who is Mr. Ransom?

Second, has Mr. Ransom had any extended or practical experience in the field of intelligence? I do not ask these questions to be in any way critical of Mr. Ransom. I merely ask them for the information of the Senate.

Mr. McCARTHY. I am not quoting Mr. Ransom particularly because he is an authority but rather because I thought what he had to say was to the point and had bearing upon the discussion. I think he is currently on the staff of Vanderbilt University. He has written what I believe is perhaps the most thorough book inquiring into the whole question of the organization and the operation of the Central Intelligence Agency.

But I would not ask any Senator to accept what Mr. Ransom has said because he said it, or even because perhaps my quoting him would be any kind of endorsement of him, but rather only upon the basis of whether or not his statements, the questions which he raises, and the proposals which he makes, are pertinent to the problem which the Senate is considering today.

Mr. SYMINGTON. Mr. President, will the Senator yield further?

Mr. McCARTHY. I yield.

Mr. SYMINGTON. Has Mr. Ransom ever had any experience in any of the intelligence apparatus of the United States?

Mr. McCARTHY. So far as I know, he has not, but I may be mistaken. He may have had some intelligence experience.

Mr. SYMINGTON. I thank the Senator.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. FULBRIGHT. As I understand, the point the Senator from Minnesota is making relates to a division within the so-called intelligence community between the gathering of the information and its analysis and operation.

Mr. McCARTHY. The Senator is correct.

Mr. FULBRIGHT. That subject has been widely discussed in the press by many writers. I do not happen to know Mr. Ransom personally.

I wish to ask the Senator a question on another subject.

Does the Senator from Minnesota know whether or not, it is true, for example, in a country such as Great Britain, that the two functions I have stated are separated?

Mr. McCARTHY. So far as I am familiar with the operation there, they are separated.

Mr. FULBRIGHT. That has been the traditional method.

Mr. McCARTHY. Yes; in Great Britain.

Mr. FULBRIGHT. As I mentioned a moment ago, the Senator is really discussing the operation of the CIA itself, and whether or not it is properly constituted, a question in which I am very interested. Will the Senator discuss the particular experience and qualifications of the appointment being considered by the Senate? As I understand, the question before the Senate is not whether the CIA is properly constituted, but whether the appointee is qualified to head the Agency. Is that not correct?

Mr. McCARTHY. The Senator is quite correct. As I indicated, the role which the CIA now plays has a bearing upon whether or not the nominee is qualified to carry out this kind of complicated and difficult directorship.

Mr. FULBRIGHT. I made that statement because at one time I was a cosponsor of a measure and very sympathetic—and still am—to the idea of a joint committee or some other committee which legally would have responsibility for the supervision of the CIA. However, I am fearful that this body will not have an opportunity to pass upon that question.

Mr. McCARTHY. I agree with the Senator.

Mr. FULBRIGHT. So the only question is on the qualifications of the appointee for the job.

Mr. McCARTHY. To exercise supervision over the Central Intelligence Agency.

Mr. FULBRIGHT. I was very curious about the Senator's views on that subject.

Mr. McCARTHY. The Senator is correct. The question is whether or not we think the appointee is qualified to direct the CIA as it is now constituted, as it now operates, and as it is likely to operate in the immediate future. I say that it would be impossible to find a man who had all the necessary qualifications. I should like to cite two or three considerations which I think Senators who are called upon to act upon the nomination need to consider.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. SYMINGTON. I share the view, and perhaps the apprehension, of the Senator from Arkansas [Mr. FULBRIGHT]. It is quite possible that the appointee of the President—in fact, the President himself—is not entirely satisfied with the past operation of the Central Intelligence Agency. If what I have said is true, I am sure that the able Senator from Minnesota does not wish to hang around the neck of Mr. McCone, whose appointment is the question before the Senate for discussion, any of the past possible sins or transgressions of the Central Intelligence Agency, I am sure he would be the first to agree that Mr. McCone has had no connection with them whatever.

Mr. McCARTHY. The Senator from Missouri has stated my position on that question correctly.

Mr. SYMINGTON. I thank the Senator.

Mr. McCARTHY. To return to the point I was making, relating to the attempt to establish some general standards, I said that the man selected to head the Central Intelligence Agency should be aware of the great powers which are given to him. Since he may be called upon—and will certainly be called upon—to operate in an area in which the question of constitutionality and the question of right or wrong will sometimes be very difficult to determine, he should, if possible, be experienced in intelligence work. As I said, he should be a good administrator. He should be concerned with the methods and means by which he, his agents, and operators are seeking their goals in gathering information and in carrying out what has come to be called operations.

It is against those four or five general standards that we must make our decision with regard to the nominee. As I have indicated, I would not attempt to pass judgment with regard to the question of his experience in intelligence. In testimony before the committee it was indicated that Mr. McCone had little or no experience in that field. As I have said, there really are no clear standards to be applied by which he might be judged. We cannot say, "Here is a man who has been highly successful," as could have been said about Allen Dulles. In my judgment he should be a man who has taken a stand or at least who has views on some of the broad and complicated policy questions that have been known.

For my part, I would feel much more confident in passing on the appointment if there were a more extensive record of his views on these complicated questions. He has spoken very little, so on that point I could not make any recommendation. I would have to say that this factor is unknown.

So far as concerns the question of the constitutionality of some of the actions, either participated in by CIA, attributed to CIA, or perhaps only carried on by the State Department, I raised this question before the committee. I suggested that they might wish to ask certain questions of the nominee, and the questions were asked. I quote from a letter which Mr. McCone himself sent to the chairman of the committee in answer to a number of questions which I had raised and which in turn had been asked of him by the committee:

Senator McCARTHY's third question asks for my views as to the authority for some of the actions attributed to the Central Intelligence Agency in the field of foreign affairs within recent years. Many events have been attributed to the Central Intelligence Agency over the years, and it would be impossible for me to have the facts on these matters, but I certainly do not accept that because they are attributed to the Central Inelligence Agency the Agency is responsible for them.

This charge was not made. This was not in the question I had suggested to the committee.

Mr. McCone continues:

The Senator's question appears to go to the basic juridical or constitutional authorities of the executive branch, and this involves profound legal questions which, since I am not a lawyer, I do not feel competent to debate. It is my understanding, however, that the President has wide powers in the field of foreign relations and within the framework of the Constitution is empowered to do what he deems to be necessary to protect and promote the national interest. At the present time, in my opinion, the national interest is best served by taking steps to deter the encroachment of communism.

Does this mean that he would justify any step or any action, constitutional or extra-constitutional or unconstitutional in deterring communism?

I would not say that this is his position, but it is the statement that he made in answer to the letter:

At the present time, in my opinion, the national interest is best served by taking steps to deter the encroachment of communism.

This is a fine, general statement of policy, but what is needed is some refinement and somewhat more specific statement with relation to the involvement of the Central Intelligence Agency, as has been charged in the press and in other places:

As provided by law the Central Intelligence Agency operates under the direction of the National Security Council which is advisory to the President and of which he is Chairman and, therefore, it is but one of the arms in the complex of establishments which are involved in the President's conduct of foreign policy.

He went on to say that he intended to carry out to the best of his abilities all the duties assigned to him.

No full or pertinent answer, it seems to me, was made to the question of constitutionality. It may be that we should not expect the head of CIA to give such an answer, and perhaps it is an unreasonable demand or an unreasonable suggestion. However, it seems to me that he should have given some thought to it, or that when he is being considered for appointment we might properly ask of him this question as to what his opinion is with respect to the juridical basis for some of these actions. In this case his answer does not cover what I hoped he would cover in answer to this question.

My fourth question was:

What is the nominee's judgment as to methods which can be justifiably used by the Central Intelligence Agency?

Mr. McCone replied:

The very nature of the question is such that I believe I cannot respond to it, particularly in the light of the responsibility imposed upon me by law to assure the protection of intelligence sources and methods from unauthorized disclosure.

I can see that there would be need for secrecy. I did not have in mind that he should express an opinion on a specific situation. I had hoped that there might be some discussion of a theoretical situation, as to what methods he thought might be justifiable. We could raise a theoretical question with reference to stirring up a revolution behind the Iron Curtain when it had no opportunity of succeeding, even though the suppression of the revolution by the Russians would give us propaganda value in some other part of the world.

This is a rather gray area, I know, and one in which I did not expect him to answer specifically or give a specific moral judgment or make a fine ethical distinction. However, this is an area in which a decision must be made, without attempting to apply a theoretical situation to a particular case. It may be that Mr. McCone would be willing to carry on such a discussion in private, but judging from what he said I cannot be sure of that.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. SYMINGTON. As I understand the question asked of the appointee by the able Senator from Minnesota, it was as to what were his views as to the authority for some of the actions attributed to the Central Intelligence Agency in the field of foreign affairs within recent years. If I were asked the question, I would not know how to answer it.

The Central Intelligence Agency has been identified, as almost entirely responsible for the Cuban situation. Based on the record to which I listened carefully, and which, as the Senator knows, some members discussed on the floor, I can not agree.

This is a very delicate field. I approach it with caution, even in commenting that much.

The next question the Senator asked of the nominee was as to the methods

which can be justifiably used by the Central Intelligence Agency.

I do not see how the head of what is known to be a covert, as well as an overt agency, and which has been set up on that basis to protect the freedom of this country, could possibly answer that question.

As the Senator from Minnesota knows, I have great respect for his opinion. However, let me read that question again.

Mr. SALTONSTALL. Mr. President, what was that question?

Mr. SYMINGTON. It is question No. 4.

This would involve such matters as whether a member of a foreign service could be influenced in any way. I can think of many other matters, and so can you other Senators. I just do not understand how a man could answer that question?

He knows the nature of the oath he takes when he takes the office, as he has twice in the past. I ask the Senator from Minnesota to give consideration, if he were nominated for this position, to what his answer would have been to this question:

What is the nominee's judgment as to methods which can be justifiably used by the Central Intelligence Agency?

The Senator, realizing, of course, that this nominee would report to the President of the United States.

Mr. McCARTHY. Well, I did not expect the nominee to give an answer in terms of every specific and possible action that might be taken. However, some time ago Mr. C. D. Jackson made a speech in which he said, as I recall the quotation, that we should proceed as fanatics, with no holds barred and no questions asked.

If this had been the nominee's answer I would have had to say that here is a person who is insensitive to the question of methods. We must be very careful not to attempt to justify the use of any methods or any means because we feel our objective is good in the matter of communism or fascism. I would expect him to make a statement in which he would make a distinction between right and wrong, even in this difficult area in which the Agency must operate. I did not expect him to make a particular, fine judgment. However, it was not unreasonable to expect a man to indicate at least the framework of principle or pattern of principle within which he would attempt to make this hard and difficult judgment or recommendation.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. SYMINGTON. I believe Mr. C. D. Jackson, to whom the able Senator has referred, is the publisher of a well-known magazine, and has been out of the Government for years.

Mr. McCARTHY. Yes.

Mr. SYMINGTON. Has that anything to do with Mr. McCone?

Mr. McCARTHY. The Senator from Missouri asked me to give an example of the kind of answer that I would make in the circumstances. I said that this is the kind of answer, if it had been given to us, would, in my opinion, have been completely unsatisfactory. The Senator asked me what kind of answer I might have given to that question. I cited all this as an example. I do not say it is Mr. McCone's approach. It is not my approach. I do not believe even that it is really the approach of Mr. C. D. Jackson.

Mr. SYMINGTON. The Senator did not read the last sentence in the fifth paragraph of the statement of Mr. McCone, incident to that question. Was there any reason for not doing so?

Mr. McCARTHY. I do not think so. I thought I had read it.

Mr. SYMINGTON. If I am incorrect, I apologize.

Mr. McCARTHY. I think I made reference to it. I may not have completed reading it.

Mr. SYMINGTON. May I read it?

Mr. McCARTHY. Yes. I do not think it is really pertinent. I have no question that Mr. McCone would not knowingly violate his oath of office. The statement really does not relate to my question, because I do not expect that he would even have had to say this in answer to me. However, I should like to have the statement complete in the RECORD. As a matter of fact, if I may have unanimous consent to do so, I should like to have the entire letter printed at this point in the RECORD.

Mr. SYMINGTON. I thank the Senator. I was about to make the same request.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CENTRAL INTELLIGENCE AGENCY,
*Washington, D.C., January 19, 1962.*

Hon. RICHARD B. RUSSELL,
*Chairman, Armed Services Committee,*
*U.S. Senate, Washington, D.C.*

DEAR SENATOR RUSSELL: I am happy to respond at the Armed Services Committee's request to the statement Senator EUGENE J. MCCARTHY made on January 18, 1962, at the opening of the committee's hearings on my nomination to the position of Director of Central Intelligence. I shall respond directly to the specific questions posed by Senator MCCARTHY at the end of his statement, but as other portions of the statement were considered during the hearings I shall also set forth my position in regard to them.

The first question asked if the Central Intelligence Agency is to be reorganized and if so in what respects. I have been and I am studying the organization of the Agency very intently. The present pattern of organization of the Agency is the result of years of study by competent people, both within the Government and outside consultants, and in my opinion it is not a bad pattern of organization. However, I believe that in all departments of the Government there is an evolution in management procedures and opportunity for improvement, so I think that some changes will be indicated in the Agency organization. I would propose to discuss any important changes with our congressional subcommittees.

During the hearings before your committee I read into the record a letter from the President concerning the scope of the responsibilities he has asked me to assume, and the President stated therein that he would expect me to delegate to a principal deputy as I may deem necessary so much of the direction of the detailed operation of the Agency as may be required to permit me to carry out the primary task of the Director of Central Intelligence. This, of course, I intend to do, and while I will have overall responsibility for the Agency, I am studying what delegations of authority should be made to the Deputy Director of Central Intelligence.

Senator MCCARTHY's second question asked what bearing such changes would have upon the duties of the head of the Central Intelligence Agency and upon the operation of the Agency. Any changes made in Agency organization will have no bearing on the duties of the Director of Central Intelligence, the scope of whose responsibilities is set forth in the Presidential letter mentioned above. The authority of the Director has been neither enhanced nor diluted, and I believe the purpose of the President's directive is to make clear that the Director of Central Intelligence is his principal intelligence officer to exercise the dual role set forth in the law, to be responsible for the direction of the Central Intelligence Agency itself, and to assure the coordination of the intelligence community as a whole. The one change that has been made is in connection with the coordination function. The Director of Central Intelligence is Chairman of the U.S. Intelligence Board, which is composed of the heads of all the intelligence components of the Government, and I have placed the Deputy Director of Central Intelligence on that Board to represent the views of the Central Intelligence Agency in connection with any matters considered by the Board. It appeared to me that if I served as Chairman and as such as the President's representative and the Deputy as the Agency's representative was the advocate of the Agency's viewpoints, I would be in a position to take a more objective point of view. This new arrangement was approved by the President in the letter referred to above.

Senator MCCARTHY's third question asks for my views as to the authority for some of the actions attributed to the Central Intelligence Agency in the field of foreign affairs within recent years. Many events have been attributed to the Central Intelligence Agency over the years, and it would be impossible or me to have the facts on these matters, but I certainly do not accept that because they are attributed to the Central Intelligence Agency the Agency is responsible for them. The Senator's question appears to go to the basic juridical or constitutional authorities of the executive branch, and this involves profound legal questions which, since I am not a lawyer, I do not feel competent to debate.

It is my understanding, however, that the President has wide powers in the field of foreign relations and within the framework of the Constitution is empowered to do what he deems to be necessary to protect and promote the national interest At the present time, in my opinion, the national interest is best served by taking steps to deter the encroachment of communism. As provided by law the Central Intelligence Agency operates under the direction of the National Security Council which is advisory to the President and of which he is Chairman and, therefore, it is but one of the arms in the complex of establishments which are involved in the President's conduct of foreign policy. I intend to carry out to the best of my ability all duties assigned, and I must assume that no such assignment would cause me to violate my oath of office to support and defend the Constitution.

Senator MCCARTHY's fourth question concerns my judgment as to methods which can be justifiably used by the Central Intelligence Agency. The very nature of the question is such that I believe I cannot respond to it, particularly in the light of the responsibility imposed upon me by law to assure the protection of intelligence sources and methods from unauthorized disclosure.

Senator MCCARTHY's fifth question was to the extent of my involvement, if any, in what had been described or reported as "leaks"

from the Atomic Energy Commission with reference to the moratorium on nuclear testing. I know of no instance where I personally or any of the Commissioners were charged by anyone with leaking anything either on this subject or any other subject of a classified nature. There were leaks in this area, but there were none that were attributed to the Atomic Energy Commission.

Senator McCARTHY's sixth question inquired as to the facts with regard to the charge that I attempted to have scientists fired at the California Institute of Technology. Ten scientists at Cal Tech signed a statement concerning suspension of nuclear testing. I differed strongly with their position and felt that the manner in which the statement came out tended to imply that it was an official Cal Tech position. I wrote my letter stating my strong disagreement to 1 of the 19 scientists directly, Dr. Thomas Lauritsen. To the best of my recollection I did not send copies of this letter to the university or officials thereof, and the file carbon which I retained does not indicate any distribution. I would be less than candid if I did not say that my views concerning this matter were known to many people. However, I did not officially or unofficially request the dismissal of any or all of the scientists by the institute, and none were dismissed as a result of any action by me.

The general thrust of Senator McCARTHY'S statement was the need for greater congressional supervision of the Central Intelligence Agency, and early in his statement he said there is no regular or normal procedure in existence or in use today by which committees of the Congress are consulted or informed of the Central Intelligence Agency's activities. There are, of course, subcommittees of the Armed Services Committees of both the Senate and the House, constituted as CIA subcommittees, and there are subcommittees of the Appropriations Committees of both the Senate and the House, constituted to consider the Central Intelligence Agency's appropriations matters. The Central Intelligence Agency has been at all times responsive to the calls of these subcommittees and in addition has brought to their attention matters the agency felt should properly be considered by them. I will continue this policy and this relationship with these subcommittees.

Senator McCARTHY'S statement quoted a comment by Hanson Baldwin that intelligence is too important to be left to the unsupervised. In addition to the relationship with the subcommittees of the Congress set forth above, the Agency reports to the National Security Council and is subject to direction by the National Security Council. There are precise interdepartmental arrangements for consideration of certain of the Agency's activities so that the President and the Secretaries of State and Defense can apply policy guidance and be adequately informed.

Senator McCARTHY also sets forth a quotation from Walter Lippmann stating that the Central Intelligence Agency has been much too often an original source of American foreign policy. I do not consider that the Director of Central Intelligence is a policy-making position. The chief function of the Agency is to obtain all possible facts from all sources and after proper evaluation disseminate them to the President and other appropriate policymakers. I might be asked my personal views, and if so I would feel free to give them, but do not conceive that it is proper for the Director of Central Intelligence to volunteer in regard to questions concerning the national policy. Within the intelligence structure there are, of course, from time to time, policy questions concerning organization or methods, but these are not related and therefore must be clearly differentiated from matters of national policy and are settled internally through the mechanism of the U.S. Intelligence Board.

I trust the foregoing will serve the needs of the committee.

Yours very truly,

JOHN A. McCONE,
*Director.*

Mr. SALTONSTALL. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. SALTONSTALL. The Senator from Minnesota has raised the question of the constitutionality of actions, and so forth. I have been looking up the law. I believe that chapter 343 of the Acts of the 80th Congress, section 102(a), beginning on page 497, is still the present law regarding the Central Intelligence Agency. I wish to call attention to subparagraph (d) of section 102, which defines its duties. If the Senator from Minnesota will permit me to do so, I should like to read the five duties.

Mr. McCARTHY. I should be glad to have the Senator from Massachusetts do so.

Mr. SALTONSTALL. I read as follows:

(d) For the purpose of coordinating the intelligence activities of the several Government departments and agencies in the interest of national security, it shall be the duty of the Agency, under the direction of the National Security Council—

(1) to advise the National Security Council in matters concerning such intelligence activities of the Government departments and agencies as relate to national security;

(2) to make recommendations to the National Security Council for the coordination of such intelligence activities of the departments and agencies of the Government as relate to the national security;

(3) to correlate and evaluate intelligence relating to the national security, and provide for the appropriate dissemination of such intelligence within the Government using where appropriate existing agencies and facilities: *Provided,* That the Agency shall have no police, subpena, law-enforcement powers, or internal-security functions: *Provided further,* That the departments and other agencies of the Government shall continue to collect, evaluate, correlate, and disseminate departmental intelligence: *And provided further,* That the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure;

(4) to perform, for the benefit of the existing intelligence agencies, such additional services of common concern as the National Security Council determines can be more efficiently accomplished centrally;

(5) to perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct.

I call especial attention to subparagraph (5):

(5) to perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct.

That would put the CIA directly under the National Security Council, to perform whatever actions the National Security Council asked the CIA to do, as I interpret that sentence.

Mr. McCARTHY. Of course, the question of constitutionality would arise so as to determine whether the CIA performed duties which the National Security Council had not directed, and also whether the National Security Council may have directed things which were extra-constitutional, and in which the proper participation of Congress itself was not provided for. So it is a basic question of the involvment of Congress and its participation in decisions, some of which I think, under the Constitution, were not intended that Congress be involved, and that this question would still run through the State Department, the National Security Council, and the Central Intelligence Agency.

Mr. SALTONSTALL. The Secretary of State himself is a member of the National Security Council. Certainly we would hope the President would not authorize, through the National Security Council, anything to be done that was not constitutional.

Mr. McCARTHY. Perhaps we should ask for representation from Congress on the National Security Council. This might be an alternative to a joint committee on intelligence.

Mr. SALTONSTALL. I think that matter has been discussed in the past and decided in the negative.

Mr. McCARTHY. Conditions change. I think it was Edmund Burke who said that for every political decision or situation, the number of factors involved is infinite; therefore, the number of decisions that might be right is also infinite.

Mr. BARTLETT. Mr. President, will the Senator from Minnesota yield?

Mr. McCARTHY. I yield.

Mr. BARTLETT. First, I desire to congratulate the Senator from Minnesota for his discussion this afternoon. I think the issues he has raised and the questions he has propounded ought to have been raised and propounded. While it is true that he—and, for that matter, all the rest of us—must, because of the very nature of the Agency which is the subject of the discussion, proceed, as it were, through the dark, darkly, yet he has brought out here points which I think will, in the long run, result in an improved functioning of the CIA. For that reason, if for no other, the country is indebted to the junior Senator from Minnesota.

I was very favorably impressed by the statement Mr. McCone made before the Committee on Armed Services, not once, but two or more times, in response to questions; namely, that he does not believe it to be the duty of the CIA to formulate policy. His description of the purpose of that organization is, as I recall his thinking about it, to collect intelligence and data. That seems to me to be vitally important. If rumors are to be believed, that has not always been true in the past.

My understanding of the situation is that foreign policy is to be conducted by the President, with advice and guidance coming principally from the Department of State, and that the contributions of the Central Intelligence Agency are to be made in the supplying of intelligence information upon which those decisions can, as we hope, be properly made. But if there are two or sometimes, as is rumored, more organi-

zations, especially in areas abroad, where we seek to influence people and governments, setting out different policies and guidelines, only confusion and sometimes chaos will result.

That is why I was especially pleased to hear Mr. McCone define the chief purpose, as is revealed in the printed hearings on his nomination, of the CIA as being a gatherer of facts.

Mr. McCARTHY. I thank the Senator from Alaska for his comments.

Mr. SYMINGTON. Mr. President, will the Senator from Minnesota yield?

Mr. McCARTHY. I yield.

Mr. SYMINGTON. It is somewhat academic, but I think there is merit in the suggestion of the Senator from Minnesota for congressional representation on the National Security Council. At one time a distinguished former Member of this body, the Honorable James W. Wadsworth, introduced a bill to that effect. It had to do with making the Vice President a statutory member of the National Security Council. The proposal was opposed by the administration at that time, because it was considered that the Vice President was a member of the legislative branch, not the executive branch.

But I think there is merit in the idea, and I hope that at sometime the able Senator from Minnesota will develop any further thoughts he may have on that.

Mr. McCARTHY. I thank the Senator from Missouri.

On this point I think it important that Senators give attention to the entire matter of procedure. I think that sometimes we believe democracy is self-operating and that we do not need to worry very much about it or about what the channels are and what the juridical basis is, and we are inclined to believe that it will take care of itself. I was not a supporter of the famous Bricker amendment; but I do not think the only question involved was isolationism, because there were also questions of the authority of Congress and the involvement of Congress in some of the decisions. So I think we should give attention to this problem, not only in regard to the CIA and foreign problems, but also in regard to matters in domestic fields.

Mr. President, I have only one more related set of remarks to make. These have to do, not with this partciular case, but with the entire function of the Senate in its role in acting on nominations.

Mr. SALTONSTALL. Mr. President, at this point will the Senator from Minnesota yield?

The PRESIDING OFFICER (Mr. BURDICK in the chair). Does the Senator from Minnesota yield to the Senator from Massachusetts?

Mr. McCARTHY. I yield.

Mr. SALTONSTALL. The Senator from Minnesota has made a learned presentation in regard to the CIA and supervision of it by the Congress, and other related matters. Do I correctly understand that the Senator from Minnesota opposes confirmation of the pending nomination; or is he raising questions now because he believes this is the proper time to raise questions in regard to this subject, when the question of confirmation of a nomination is before the Senate?

Mr. McCARTHY. Let me say to the Senator from Massachusetts that several other Members have been concerned about some other related problems, and I should like to hear them express their views. But it is my feeling that whereas I would not say the nomination of Mr. McCone should be rejected on the basis of any one of the specific points which have been made against confirmation of his nomination, yet the total pattern or configuration is such that if it were for me to make the decision about confirmation of his nomination or rejection of his nomination, I would have to vote "No." So unless I am persuaded otherwise in the course of time—and of course, as Edmund Burke said, little time remains, for we must vote on this question the day after tomorrow, Wednesday, and even though I do not think many Members would base their decision on my declaration of position, yet I would have to say that as of now I am not prepared to vote in favor of confirmation of the nomination.

Mr. SALTONSTALL. Mr. President, will the Senator from Minnesota yield further?

Mr. McCARTHY. I yield.

Mr. SALTONSTALL. Whereas I agree on many subjects with the Senator from Minnesota, let me say very fervently and categorically that I disagree with him on this one, and I shall vote in favor of confirmation of the nomination.

Mr. McCARTHY. In view of the Senator's previous remarks, I assumed that he was likely to reach that conclusion.

Mr. FULBRIGHT. Mr. President, on this point, will the Senator from Minnesota yield?

Mr. McCARTHY. I yield.

Mr. FULBRIGHT. A moment ago I thought the Senator from Minnesota would proceed to discuss the affirmative reasons which had been advanced in regard to the question of confirmation of this nomination. Do I correctly understand that the Senator has completed that part of his presentation?

Mr. McCARTHY. I thought that by indirection I had made those points. Certainly I do not dispute some of the claims made for the nominee or about his fine record, as pointed out by the Senator from Missouri. I can only say that I have in mind a different point.

As regards the administrative experience of the nominee, I am not in a position to challenge, or at least I am not inclined to challenge, any of those statements.

Mr. FULBRIGHT. Do I correctly understand that the Senator from Minnesota has said he has no knowledge of the nominee's views in regard to matters of foreign policy?

Mr. McCARTHY. I say that I am not informed in regard to his position on many matters of complicated and difficult foreign policy, and this is information which I should like to have.

Mr. FULBRIGHT. Did the Senator ask questions of the nominee himself on this subject?

Mr. McCARTHY. I did not. I said that I should like to have the committee ask questions on that. But I think the procedure in the committee is not to have other Senators ask questions there. Is that correct?

Mr. SYMINGTON. The Armed Services Committee was very glad to have the Senator from Minnesota submit questions. The Senator from Arkansas has brought up a pertinent point, because the chairman of the Senate Armed Services Committee permitted questions in any detail the Senator from Minnesota wanted to ask them. Some are part of the record, beginning with page 32, listed from 1 to 6. The answers were given by Mr. McCone in the letter which members of the committee received; and it is now part of the hearing record.

I would say, with great respect to the Senator from Minnesota, that if there were any specific questions for the purpose of challenging the nominee's capacity in this field, and his knowledge of foreign policy—which, as the Senator knows, is reasonably extensive, based on positions he has held in the past—inasmuch as the Senator from Minnesota has now declared his intention to vote against confirmation of the nomination, I would have hoped the questions would have been asked of the nominee at the committee hearing, so that before the Senator from Minnesota took the floor he would have had answers to any questions he cared to ask.

Mr. FULBRIGHT. Mr. President, will the Senator from Minnesota yield?

Mr. McCARTHY. I shall yield in just a moment.

First, let me say that the questions to which the Senator from Missouri refers were included in my statement and were suggested to the Armed Services Committee as relating to an area about which they might wish to ask questions.

Mr. FULBRIGHT. That is what I wished to ask about. Did any member of the Armed Services Committee question the nominee in regard to this aspect of foreign relations?

Mr. McCARTHY. So far as I know, there were no questions there in regard to matters which can be defined as matters of foreign policy or relating to foreign problems.

Mr. FULBRIGHT. Does not the Senator think it is rather unusual that the committee did not ask questions about such matters, which are of primary concern to it?

Mr. McCARTHY. I had hoped they would, because the public record is very scanty.

Mr. FULBRIGHT. The Senator fror Minnesota is not a member of that committee; is he?

Mr. McCARTHY. No, I am not a member of the Armed Services Committee.

Mr. FULBRIGHT. So the record does not show that any member of the Armed Services Committee asked about these matters; does it? I am asking the Senator that question.

Mr. McCARTHY. No; not in what I consider a sufficient way to go into such complicated matters.

Mr. SALTONSTALL. Mr. President, will the Senator from Minnesota yield?

Mr. McCARTHY. I yield.

Mr. SALTONSTALL. I should like to refer the Senator from Minnesota to the committee hearings at the top of page 42. From that page I quote the following statement by Mr. McCone:

As I said, from the standpoint of my competence in office, it is my responsibility to report facts, and, furthermore, I think I should avoid, so far as possible, being drawn in on a personal basis into any policy discussions because that, to an extent, may have some effect on what people, the validity that people might attach to the facts.

However, I would expect that because of the various areas of activity that I have had in Government in the past, that maybe my personal opinion may be asked on some subjects. But in my role as Director of Central Intelligence, it would be beyond my competence to deal with policy.

That was brought out at least two or three times during the discussion; and certainly in the past the former Director, Mr. Dulles, said clearly that he had never expressed himself on matters of policy. He said it was his duty to obtain the facts and to give them to the policymakers, who are the President, the Secretary of State, the Secretary of Defense, and so forth.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. SYMINGTON. Does the Senator believe a nominee to be Director of the Central Intelligence Agency can properly testify before a congressional committee, in open session, his views with respect to matters relating to his programs and policies, as he views them in regard to our intelligence activities in the various foreign countries?

Mr. McCARTHY. I do not know that it would have been necessary for him to discuss all of these in open committee sessions. I would not have been opposed to having the committee hold some executive sessions or limited sessions, if need be. But to satisfy myself, at least, I should have liked to have had a knowledge of his stand on some of these issues with which the Central Intelligence Agency will have to deal.

I think this raises a rather serious question in regard to what is the real role of the Senate in regard to acting on the question of confirming Presidential nominations—for instance whether the Senate is to take the position that the point of view of the nominee has no relationship to the question of confirmation, and should not be inquired into.

Mr. SYMINGTON. In open session——

Mr. McCARTHY. If so, that limits the role of the Senate to checking and ascertaining whether the nominee is honest, and whether he has FBI clearance, and perhaps whether under certain conditions he has a health certificate. In that event it could be said there is no need for the Senate to inquire into these other areas.

There is no need to hold extensive hearings, in my opinion, for important decisions to cover these three points; but, traditionally, the Senate has looked into the matter of the point of view of a nominee. Let us take the Secretary of State. It may be pointed out that he simply is the instrument and agent of the President, so why should we ask him what his policies are? It could be said that this man is purely the representative of the Executive.

With respect to the appointment of a former Secretary of Agriculture, we Democrats went into that question extensively with respect to Ezra Taft Benson. Why did we not then say that he had nothing to do with policy; that he was simply the channel, the instrument, and was pure and undefiled? We raised the question of point of view and policies in many other areas that are not as important as they are in the determination of policies of the Central Intelligence Agency.

Mr. SALTONSTALL. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. SALTONSTALL. I say, just as emphatically as I can, from my knowledge of CIA and its activities over the years, that if Mr. McCone had made a statement on policy questions and had said, "I believe that this is the wrong policy, and this is the right policy," it would have affected my opinion very materially as to whether he was the right man for this kind of position to which he has been appointed. His job is not to express policy positions, but to get facts on which the policymakers can act. If they do not have the facts so they can do a job, he should get more facts or resign, or be asked to resign because he is not doing his job of getting the facts.

I say that most respectfully to the Senator from Minnesota, because in this instance it is distinctly against the nominee's qualifications for the position for one chosen to express himself on policies of the Government. That is my understanding of the situation.

Mr. McCARTHY. I think if we could be sure that he was going to be completely neutralized from now on, it might be the ideal. If he replied that he had no views or has had no views on policy problems that have been before us, it would be another matter. But I do not think the Senator would argue that Mr. McCone is a man who has no views or has had no views, so it is a matter of some significance to know what they are or have been. We can move from that point to determine whether or not he would let those views affect what he might do as the head of the Central Intelligence Agency. I say we would not accept a man as head of the Rural Electrification Administration and say we did not care what his views are. The Senate would not respond to that kind of appeal. I recognize that these remarks would not apply to the head of this Agency as they would to the head of the REA; but, in terms of procedure, I would be opposed to a man who had expressed certain views on the questions of policy in a field in which he was going to be active, because, in the formal sense, he would be expected to carry out the laws of Congress.

Mr. SALTONSTALL. If the Foreign Relations Committee did not ask a new Secretary of State for his ideas and position and feelings on foreign affairs matters, I think it would be derelict in its duty. That would be true with respect to the Committee on Agriculture and Forestry with respect to one's agricultural policies. But in this case it is not, I repeat, a policymaking job; this is an effort to find a man who is capable of getting the facts, administering the Department, picking out good men to work under him, so that they can get the facts and give those facts to the President, the National Security Council, and, when asked, to the Congress.

Mr. McCARTHY. The record shows that this Agency has been a policy making one and has had a great influence on policy. If such complete neutralism could be achieved, I think the Senator's case could be made. I was going to conclude with a statement which is really an answer to the question the Senator raised earlier. In this case the whole somehow is greater than the sum of its parts, and I am inclined to oppose the nomination.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. SYMINGTON. The Senator from Minnesota had an interview with Mr. McCone, did he not?

Mr. McCARTHY. Yes.

Mr. SYMINGTON. At the Senator's request?

Mr. McCARTHY. I think it was at his request.

Mr. SYMINGTON. Did the Senator find Mr. McCone evasive?

Mr. McCARTHY. No. I think he answered essentially in the same way he answered before the committee and in the letter which he subsequently sent to the committee when the committee suggested—I do not know whether it was a suggestion or not—that he answer in response to my question, which the committee presented to him.

Mr. SYMINGTON. The only reason I mention this conference is because of a discussion before the committee. I had felt the Senator from Minnesota was stating Mr. McCone attempted to discharge these professors.

Mr. McCARTHY. I have not raised that question here today.

Mr. SYMINGTON. I know the Senator has not. I am raising it.

Mr. McCARTHY. I have made no point about evasiveness with respect to any question.

Mr. SYMINGTON. I asked the Senator that question because I wanted it clear in the RECORD that he had not requested the discharge of these men and none were discharged.

Mr. McCARTHY. Insofar as I know, what the nominee said in answer to the various questions, not only in that hearing, but before the Joint Committee on Atomic Energy, presented a picture of one in whom there was no evasion or misrepresentation of fact.

Mr. SYMINGTON. I thank the Senator.

Mr. McCARTHY. There may be a few side facts that may not have been

presented, but, so far as questions went in that field, I would not say he has not completed the record.

Mr. SYMINGTON. I brought that question up because the question was asked. Are there any fields in which the Senator believes the nominee was evasive?

Mr. McCARTHY. At present, no. It is not a question of evasiveness. I have made no charge of evasiveness, but I raised some questions which had been raised, to which satisfactory answers were given in the hearings, and in part raised them here because they deserved special consideration in reference to facts in controversy with respect to the head of the Central Intelligence Agency.

Mr. SYMINGTON. I thank the Senator.

In the record the Senator from South Dakota asked the nominee about his position; whether he was a policymaker; and he said "No." I am sure it was the feeling of his predecessor that he should not be a policymaker.

Mr. McCARTHY. I thank the Senator.

Mr. President, I ask unanimous consent that there be printed at the conclusion of my remarks two documents, one a letter from John A. McCone addressed to the Honorable RICHARD B. RUSSELL, chairman of the Armed Services Committee, dated January 19, and an article entitled "The Secret Mission in an Open Society," by Harry Howe Ransom. At the time the latter article was written Mr. Ransom was on the faculty of Harvard, if I may correct my earlier statement. He has since moved from Harvard.

There being no objection, the letter and article were ordered to be printed in the RECORD, as follows:

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CENTRAL INTELLIGENCE AGENCY,
*Washington, D.C., January 19, 1962.*

Hon. RICHARD B. RUSSELL,
*Chairman, Armed Services Committee,*
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR RUSSELL: I am happy to respond at the Armed Services Committee's request to the statement Senator EUGENE J. MCCARTHY made on January 18, 1962, at the opening of the committee's hearings on my nomination to the position of Director of Central Intelligence. I shall respond directly to the specific questions posed by Senator MCCARTHY at the end of his statement, but as other portions of the statement were considered during the hearings I shall also set forth my position in regard to them.

The first question asked if the Central Intelligence Agency is to be reorganized and if so in what respects. I have been and I am studying the organization of the Agency very intently. The present pattern of organization of the Agency is the result of years of study by competent people, both within the Government and outside consultants, and in my opinion it is not a bad pattern of organization. However, I believe that in all departments of the Government there is an evolution in management procedures and opportunity for improvement so I think that some changes will be indicated in the agency organization. I would propose to discuss any important changes with our congressional subcommittees.

During the hearings before your committee I read into the record a letter from the President concerning the scope of the responsibilities he has asked me to assume, and the President stated therein that he would expect me to delegate to a principal deputy as I may deem necessary so much of the direction of the detailed operation of the Agency as may be required to permit me to carry out the primary task of the Director of Central Intelligence. This, of course, I intend to do and while I will have overall responsibility for the Agency, I am studying what delegations of authority should be made to the Deputy Director of Central Intelligence.

Senator MCCARTHY's second question asked what bearing such changes would have upon the duties of the head of the Central Intelligence Agency and upon the operation of the Agency. Any changes made in Agency organization will have no bearing on the duties of the Director of Central Intelligence, the scope of whose responsibilities is set forth in the Presidential letter mentioned above. The authority of the Director has been neither enhanced nor diluted, and I believe the purpose of the President's directive is to make clear that the Director of Central Intelligence is his principal intelligence officer to exercise the dual role set forth in the law, to be responsible for the direction of the Central Intelligence Agency itself, and to assure the coordination of the intelligence community as a whole. The one change that has been made is in connection with the coordination function. The Director of Central Intelligence is Chairman of the U.S. Intelligence Board, which is composed of the heads of all the intelligence components of the Government, and I have placed the Deputy Director of Central Intelligence on that Board to represent the views of the Central Intelligence Agency in connection with any matters considered by the Board. It appeared to me that if I served as Chairman and as such as the President's representative and the Deputy as the Agency's representative was the advocate of the Agency's viewpoint, I would be in a position to take a more objective point of view. This new arrangement was approved by the President in the letter referred to above.

Senator MCCARTHY's third question asks for my views as to the authority for some of the actions attributed to the Central Intelligence Agency in the field of foreign affairs within recent years. Many events have been attributed to the Central Intelligence Agency over the years, and it would be impossible for me to have the facts on these matters, but I certainly do not accept that because they are attributed to the Central Intelligence Agency the Agency is responsible for them. The Senator's question appears to go to the basic juridical or constitutional authorities of the executive branch, and this involves profound legal questions which, since I am not a lawyer, I do not feel competent to debate. It is my understanding, however, that the President has wide powers in the field of foreign relations and within the framework of the Constitution is empowered to do what he deems to be necessary to protect and promote the national interest. At the present time, in my opinion, the national interest is best served by taking steps to deter the encroachment of communism. As provided by law the Central Intelligence Agency operates under the direction of the National Security Council, which is advisory to the President and of which he is Chairman and, therefore, it is but one of the arms in the complex of establishments which are involved in the President's conduct of foreign policy. I intend to carry out, to the best of my ability, all duties assigned, and I must assume that no such assignment would cause me to violate my oath of office to support and defend the Constitution.

Senator MCCARTHY's fourth question concerns my judgment as to methods which can be justifiably used by the Central Intelligence Agency. The very nature of the question is such that I believe I cannot respond to it, particularly in the light of the responsibility imposed upon me by law to assure the protection of intelligence sources and methods from unauthorized disclosure.

Senator MCCARTHY's fifth question was to the extent of my involvement, if any, in what had been described or reported as leaks from the Atomic Energy Commission with reference to the moratorium on nuclear testing. I know of no instance where I personally or any of the Commissioners were charged by anyone with leaking anything either on this subject or any other subject of a classified nature. There were leaks in this area, but there were none that were attribtued to the Atomic Energy Commission.

Senator MCCARTHY's sixth question inquired as to the facts with regard to the charge that I attempted to have scientists fired at the California Institute of Technology. Ten scientists at Cal Tech signed a statement concerning suspension of nuclear testing. I differed strongly with their position and felt that the manner in which the statement came out tended to imply that it was an official Cal Tech position. I wrote my letter stating my strong disagreement to one of the 10 scientists directly, Dr. Thomas Lauritsen. To the best of my recollection I did not send copies of this letter to the university or officials thereof, and the file carbon which I retained does not indicate any distribution. I would be less than candid if I did not say that my views concerning this matter were known to many people. However, I did not officially or unofficially request the dismissal of any or all of the scientists by the institute, and none were dismissed as a result of any action by me.

The general thrust of Senator MCCARTHY's statement was the need for greater congressional supervision of the Central Intelligence Agency, and early in his statement he said there is no regular or normal procedure in existence or in use today by which committees of the Congress are consulted or informed of the Central Intelligence Agency's activities. There are, of course, subcommittees of the Armed Services Committees of both the Senate and the House, constituted as CIA Subcommittees, and there are subcommittees of the Appropriations Committees of both the Senate and the House, constituted to consider the Central Intelligence Agency's appropriations matters. The Central Intelligence Agency has been at all times responsive to the calls of these subcommittees and in addition has brought to their attention matters the Agency felt should properly be considered by them. I will continue this policy and this relationship with these subcommittees.

Senator MCCARTHY's statement quoted a comment by Hanson Baldwin that intelligence is too important to be left to the unsupervised. In addition to the relationship with the subcommittees of the Congress set forth above, the Agency reports to the National Security Council and is subject to direction by the National Security Council. There are precise interdepartmental arrangements for consideration of certain of the Agency's activities so that the Presi-

dent and the Secretaries of State and Defense can apply policy guidance and be adequately informed.

Senator MCCARTHY also sets forth a quotation from Walter Lippmann stating that the Central Intelligence Agency has been much too often an original source of American foreign policy. I do not consider that the Director of Central Intelligence is a policy-making position. The chief function of the Agency is to obtain all possible facts from all sources and after proper evaluation disseminate them to the President and other appropriate policymakers. I might be asked my personal views, and if so I would feel free to give them but do not conceive that it is proper for the Director of Central Intelligence to volunteer in regard to questions concerning the national policy. Within the intelligence structure there are, of course, from time to time policy questions concerning organization or methods, but these are not related and, therefore, must be clearly differentiated from matters of national policy and are settled internally through the mechanism of the U.S. Intelligence Board.

I trust the foregoing will serve the needs of the committee.

Yours very truly,

JOHN A. MCCONE,
*Director.*

SECRET MISSION IN AN OPEN SOCIETY

(By Harry Howe Ransom)

Silence is the golden word of intelligence. Recent events, however, have trumpeted U.S. foreign intelligence activities at full volume and high fidelity for all the world to hear. What has come through is disturbing.

The Central Intelligence Agency's misfortunes have engendered the publicity which an efficient intelligence system always seeks to avoid. The fact that disclosures have been made in itself represents a failure. The nature of the disclosures raises troublesome issues, but the central question in the current White House and Capitol Hill investigations is, What is the role of the secret intelligence apparatus in a democracy?

Few would deny the necessity of intelligence activities. After the American U–2 aircraft was downed in Russia last year, President Eisenhower publicly confessed to the world that the United States—pursuant to authority granted in the National Security Act of 1947—seeks intelligence in every feasible way. The espionage side of this activity he described as a distasteful but vital necessity for security against surprise attack and for effective defense planning.

The Cuban fiasco, however, has revealed in unprecedented detail another side of CIA activities—clandestine political operations designed to subvert an unfriendly government.

Central Intelligence today has three principal functions: Intelligence collection, its analysis and communication to policymakers, and clandestine foreign political operations. The increasing necessity of these activities is attributable to three major reasons.

From earliest times, an intelligence apparatus has been an indispensable part of the paraphernalia of a great world power. The worldwide responsibilities of the United States today require both a system for keeping the complex details of world politics under constant surveillance and an instrument for secret foreign political action.

A second reason is that national policy decisions are based, increasingly, upon predictions of foreign political, economic, and military developments 5 to 10 years hence. This fact is a consequence of the long lead-time in developing weapons systems and of the need to make economical use of finite resources to implement long-range foreign policy objectives.

Consequently, an intelligence system today is asked an incredibly wide range of urgent questions, answers to which can be obtained sometimes only by devious methods. When will Communist China test an atomic device? What future has the economic integration of Europe? How stable is the Government of South Vietnam? What course will Sino-Soviet relations take?

A third reason derives from modern military technological developments. Intelligence, it often is said, has become the first line of defense. Accurate and rapidly transmitted information is an absoluate requirement for an effective strategy of deterrence. Strategic striking forces must have an accurate dossier of potential enemy targets. And essential elements of information always must be available to thwart an enemy's possible surprise knockout blow.

Much of such information is held in tightest security by the Iron Curtain countries, requiring a systematic effort to ferret it out. Similar information is freely available to the Communists from our open society.

Americans have not flinched at espionage or underground political action in wartime. A favorite national hero is Nathan Hale, who spied in the American Revolutionary cause. In World War II, the Office of Strategic Services was, deservedly or not, considered most romantic.

Short of declared war, however, secret operations are widely regarded as a dirty business, unfitting America's open, democratic—and formerly isolationist—society. Events of recent years have, nonetheless, revealed to the public at least the top of the iceberg of a vast secret intelligence program.

Distasteful or not, secret operations have become a major underground front of the cold war. The accelerating pace of cold warfare in Laos, South Vietnam, Thailand, the Congo, Latin America and elsewhere increases the pressure for greater American involvement in the secret black arts.

One's attitude toward these activities will depend, finally, upon one's assessment of contemporary international politics and of the requirements for the common defense. President Kennedy recently declared that the cold war has reached such a stage that "no war ever posed a greater threat to our security." If they take that as a valid assessment, most Americans will assume, although doubtless with misgivings, a wartime attitude toward secret operations.

Whatever one's view, the existence of a secret bureaucracy poses special problems in the American system of government. Knowledge is power. Secret knowledge is secret power. A secret apparatus, claiming superior knowledge and operating outside the normal checkreins of American democracy is a source of invisible government.

The American democratic system, however, is based upon the concept of visible, identifiable power, subject to constitutional checks and balances. One important check is the citizen's right to know what his Government is doing. Another is the existence of a free press to inform him.

How, then, can the controls of a democratic system be imposed upon the intelligence system while maintaining the secrecy required for its successful operation? Secret operations must remain immune from some of the normal checks, especially publicity. Heavy dependence must be placed upon politically responsible officials to exercise control.

In a parliamentary democracy, such as Great Britain, the problem is less acute. The difference is attributable to four factors.

First, Britain has been a world power for several centuries. Over the years a degree of confidence in the professionalism of secret operations has developed

Second, parliamentary government unifies executive and legislative responsibility under majority-party leadership. When Ministers are also Members of Parliament, responsibility for management of secret functions is reinforced.

A third mitigating factor is "the establishment." That political leaders, intelligence chiefs and lords of the press often have common social ties facilitates consensus on necessary secrecy.

Fourth, the existence of the Official Secrets Act inhibits the publication of secret information by imposing legal sanctions on the press. Additionally, a special Government press arrangement exists under which British editors are sometimes asked upon receipt of Government defense notices, to refrain voluntarily from publishing specified sensitive information.

British intelligence services, too, are so organized that secret political operations overseas are entirely separate from political and military intelligence functions. An agency for secret operations is supervised by a special cabinet subcommittee. The point is that all are under firm political authority.

Totalitarian regimes, with their absolute control of the press, suppression of opposition and centralized government, have few of the problems of disclosure and control experienced by open societies. The Soviet Union is thought to possess the largest intelligence system in the world; its existence is never avowed by Communist leaders.

Even in dictatorships, however, problems exist. The interpretation of foreign intelligence doubtless is often distorted by the intelligence structure there are, of course, fr rigid ideology. And it is also a fact of history that the secret intelligence apparatus often has been a vehicle for internal political conspiracy. Invisible power is a potential threat to constituted authority whatever the form of government.

Aware of the danger of secret power within government, the President and Congress have attempted to surround the CIA and related secret apparatuses with controls. These are designed to reconcile the conflicting requirements of secrecy and of democratic control.

The first of these mechanisms derives from the fact that the CIA's functions are specified, broadly, by Federal statute, defining the agency as an instrument of the Presidency. The CIA's operational guidelines are some 2 dozen codified National Security Council intelligence directives, approved by the President. Action such as the U–2 flights and the Cuban expedition must be approved specifically by the President. In the past he has had the advice on such matters of a special NSC Subcommittee on Clandestine Operations.

A second potential check has been the President's eight-man Board of Consultants on Foreign Intelligence Activities. This was established early in 1956, after a Hoover Commisison study expressed concern about the possibility of the growth of license and abuses of power where disclosures of costs, organization, personnel and functions are precluded by law.

The first chairman of this group, composed largely of distinguished industrialists and former armed-services officers, was James R. Killian Jr., then president of the Massachusetts Institute of Technology. President Kennedy recently reappointed Dr. Killian to the chairmanship of a reconstituted board

after a 2-year interval in which Gen. John E. Hull, retired Army officer, presided.

While the CIA's huge annual budget—estimated at more than half a billion dollars—is not subject to normal legislative review, three Congressional standing subcommittees on central intelligence in fact exist as a third potential checkrein.

The Senate and House Armed Services Committees both have subunits assigned as watchdogs over the CIA. The Senate subcommittee combines senior Senators from the Appropriations and Armed Services Committees. The House maintains a separate Appropriations Subcommittee, some members of which have been privy to such secrets as the atomic bomb (Manhattan project) appropriations during World War II.

The working principle of the intelligence system in the United States was expressed some years ago by Allen W. Dulles, Director of Central Intelligence:

"In intelligence you have to take certain things on faith. You have to look to the man who is directing the organization and the result he achieves. If you haven't got someone who can be trusted, or who doesn't get results, you'd better throw him out and get someone else."

Central Intelligence is subject today to three major criticisms. They involve questions of control by responsible authority, the efficiency of existing organizations and the problem of secrecy.

True, the CIA operates under Presidential directives, and interdepartmental groups from the National Security Council downward participate both in interpreting intelligence data and in authorizing covert operations. Yet the principal intelligence adviser to the highest authority remains the Director of Central Intelligence, armed with etxraordinary secrecy inside the Government and with a secret budget.

In a complex world of fast-moving events and in a Washington intelligence community where CIA professionals are increasingly influential, too few sources of countervailing power exist. This particularly is a problem with covert operations in which the Presidency is largely dependent upon the CIA for information on what is being done or what needs doing. The danger of self-serving by the Agency is great. CIA may, without careful policy guidance, write its own ticket.

In its 6 years of existence, the President's Board of Consultants on Foreign Intelligence Activities, recently renamed the Foreign Intelligence Advisory Board, has functioned more as a polite alumni visiting committee than as a vigorous watchdog. With one professional staff assistant and a single secretary, the Board has been able only sporadically to oversee the 15,000-man CIA.

Congressional surveillance has been much the same—infrequent meetings of uncommonly timorous subcommittees. The attitude of veteran legislators assigned to these units is exemplified by one who declared:

"It is not a question of reluctance on the part of CIA officials to speak to us. Instead, it is a question of our reluctance, if you will, to seek information and knowledge on subjects which I personally, as a Member of Congress and as a citizen, would rather not have."

As astute politicians, Members of Congress realize the possible national embarrassment if they formally approved espionage or covert political action that fails and is disclosed. Yet even were Congress less inhibited about monitoring secret operations effectively, none of the subcommittees has adequate staffs today for thorough surveillance.

Secret intelligence must never be more or less than an instrument of national policy. Its control should remain primarily a responsibility of the Presidency, but Congress also must assume a more carefully defined and active surveillance role. And the Department of State, particularly, must be aggressive in weighing gain from success, against cost of failure, in every proposed major secret operation.

A second major criticism is that the CIA places under one roof the separate functions of intelligence collection, its analysis and underground foreign political action.

Those who would organize and carry out a proposed secret operation should be separated in the decisional process from those who supply and interpret information to justify the plan.

This unification appears to have been a major defect in the Cuban misadventure. It may explain both the prediction that Cubans would rise to assist the exiles in overthrowing Castro and the policy decision that the venture was feasible.

Planners and operational commanders notoriously come to view the plan as an end in itself. They gradually develop a state of mind that is receptive only to intelligence data that justify the plan's practicability. A distorted view of reality often results.

Another example is the unexpected intervention of the Chinese Communists on a large scale in the Korean war in November 1950. Hard intelligence was available that the Chinese Communists were infiltrating North Korea, with a strong possibility of major intervention. Yet the operational plan of General MacArthur's forces to drive north to the Yalu went ahead disastrously in disregard of available information that should have given pause. The decisional system should be insulated against this common cause of self-delusion.

Persuasive reasons possibly can be advanced for not placing covert foreign political and intelligence (informational) functions under separate agencies. If so, the dangers inherent in combining them should be recognized and appropriate safeguards provided.

A third and related criticism involves secrecy. Democracy cannot work without a free press. Expanding Government secrecy increases the danger of official manipulation of opinion and concealment of shortcomings of an incumbent leadership. Secrecy also vitiates the party and electoral system and reduces the meaningful autonomy of Congress. Yet again intelligence activities by definition require secrecy.

In the face of this dilemma, CIA's secrecy today has become ambiguous. This may be the fate of any secret apparatus within America's open society. But only in America have intelligence officials become famous personalities eager to mount the public rostrum. The director, deputy director and other CIA officials in recent years have made frequent public speeches, some containing implicit policy recommendations. The CIA leadership should become again publicly silent and unquestionably nonpolitical. Anonymity is the only proper role.

Another aspect of the CIA's ambiguous secrecy is that major operations that fail often produce, as we have seen, public confessions from highest authority. On the other hand, secret missions that succeed often are known to the press but voluntarily censored.

For example, the CIA played a dominant role in the overthrow of Premier Mossadegh in Iran in August 1953, after his abortive attempt, in league with the Communist Tudeh Party, to exile the pro-Western Shah. This role has never been officially admitted.

Another example is CIA's involvement in the 1954 Guatemalan episode. In an operation resembling on a smaller scale the recent Cuban expedition, the CIA aided the successful counter-revolution against the regime of Col. Jacobo Arbenz Guzman, which the U.S. Government regarded as Communist-dominated. The American press remained silent. Perhaps the inevitable penalty for failure is disclosure.

Self-restraint on the part of the press and of Congress in dealing with justifiably secret information will come at that point when confidence is restored in the professional quality and unquestioned subordination to political authority of secret operations.

It remains to be said that America's foreign policy headaches around the globe today stem less from information or organization deficiencies than from lack of clearly articulated foreign policy objectives beyond anticommunism. Many of the aforementioned problems of the intelligence system would solve themselves, given a clearer consensus about America's world purpose and specific policy objectives.

No greater challenge confronts American society than responding to the question of how the United States can engage successfully in protracted cold warfare without sacrificing the principles defended.

As an open democratic society, the United States has to recognize its handicaps in some form of competition with the closed societies of totalitarian regimes. It would be unwise to attempt to match the proficiency of Communist regimes in subversion as the main avenue to the attainment of national objectives. There is no point in America's fighting totalitarianism by imitating it.

It is equally as important to recognize that any Communist competitive advantage in cold warfare comes not alone from centralization, secrecy and rigid discipline. More important is the existence of a Communist purpose, clear objectives and refined doctrines for implementing them.

In a world still lacking universal acceptance of law and order based upon government by consent, the United States will sometimes face compelling requirements to engage in distasteful—indeed, illegal—secret operations. What is crucially important in a democracy is that plans, policies and programs for such reflect the deliberate, informed and purposeful decisions of responsible political authority.

Mr. McCARTHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate concludes its deliberations today it stand in adjournment to meet at 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

## NOMINATION OF JOHN A. McCONE TO BE DIRECTOR OF CENTRAL INTELLIGENCE

The Senate resumed the consideration of the nomination of John A. McCone, of California, to be Director of Central Intelligence.

Mr. DIRKSEN. Mr. President, the question of conflict of interest continues to beset Congress session after session, and it does develop some rather awkward and embarrassing situations not only for Members but also for those who are appointed to come into the Government service because they have extraordinary talent and competence to render service to the Government.

In the instant case we are considering a very distinguished citizen. I do not believe there can be any doubt about the fact that he is a distinguished citizen. He was first nominated by the President in September of 1961. I believe the oath was administered at the White House by Chief Justice Warren in the latter part of November.

At the time the designation was made by the President of the United States, there was certainly a glowing statement with respect to John A. McCone and the confidence of the President in his capacity to discharge his responsibility as Director of the Central Intelligence Agency.

I took a little look at this problem, and I puzzled over it, largely because I am a member of the Committee on the Judiciary of the Senate, which committee has held some hearings and heard some testimony with respect to certain conflict-of-interest bills; one sponsored by the administration, one sponsored by the two distinguished Senators from New York [Mr. JAVITS and Mr. KEATING], and one which was reported by the House Committee on the Judiciary and which has been languishing on the House calendar I believe since July of last year.

I wish to use this nomination as a backdrop for what I say on the matter.

Mr. McCone, as I recall, is 60 years of age. I have talked with him on occasion and discovered that he is a mild-mannered man, a man of mild speech but of great competence. He was graduated from the University of California I believe in 1922.

The character of the man is evidenced pretty well by the fact that notwithstanding an engineering degree he became a riveter in an iron works. When a fellow is willing to start at the very bottom notwithstanding the great amount of engineering data and knowledge he has absorbed in college, I think it is pretty good testimony to his character and to his willingness to start at the bottom and to come up the ladder. By rapid stages he did come up the ladder, finally to help set up, in partnership with others, a business of his own.

For a long time Mr. McCone has devoted his talents, together with those of his associates, to the business of building troopships, of building refineries, of building all manner of facilities which are produced of steel.

Sooner or later a man like that was bound to get into the Government service. I think that high talent recommends itself. It is not at all surprising that three Presidents—President Truman, President Eisenhower, and President Kennedy—have availed themselves to Mr. McCone's service.

He came to the Government in an advisory capacity I believe in the Truman administration, and showed aptitude and competence in the whole field in which the Air Force operates. He did a lot of work in the field of Air Force procurement, and he received the Civilian Service Award with high honors in 1951.

It was not surprising that in due course President Eisenhower should choose him to be a member of the Atomic Energy Commission. Certainly he rendered great service there.

He went back to private life, and President Kennedy then discovered his competence in many fields and thought he would prove very useful in directing the affairs of the Central Intelligence Agency.

This subject of conflict of interest is always a difficult problem, to say the least, about which one can scarcely talk without having it said that he is speaking in derogation of a person. That is the last thing I would undertake to do. It is a subject of interest to the Congress. I am raising the question only to excite some additional interest in the necessity that the Congress modify and clarify acts which have been on the books almost going back to the Civil War which in their application, if they were strictly applied, would provide some of the most fantastic results anyone could imagine.

I noticed in the House report on one of the acts on the books today that if a mail carrier assisted his mother in making out some kind of a pension application as to which Federal funds were involved he would be in violation of a Federal law and could be prosecuted, as existing law stands today.

This nomination has had attention, and a great deal has been written about Mr. McCone by Mr. Pearson. I think I have read most of the articles. A lot of the material was in quotation marks. Some of it was arrogated to our late distinguished and lamented friend, Senator Bridges. It was taken out of the RECORD.

I am sure that as people in the country read these observations it disturbs them even as it disturbs us. I came into the Chamber one noon recently and talked to a Member of the Senate. I said, "Did you see Mr. Pearson's article today?" He said, "I did." I said, "I am terribly disturbed and distressed about it. I do not quarrel with the articles as such, but I am thinking in terms of their impact on the thinking of people all over the country and what is our responsibility in undertaking to bring about a modification of the things which are on the statute books at the present time."

I know the nomination before the Senate will be approved. I say right now that I shall vote to confirm the nomination of Mr. McCone. However, this nomination directs attention to the fact that without undue delay both the House and the Senate now ought to direct some really vigorous efforts to the business of revising the conflict-of-interest statutes with which we are presently dealing.

There are eight of these, and they fall roughly into four categories. The first would include officers and employees who act in behalf of an outside interest in dealings with the Government. I think an example probably would be a military officer who assists a private company in obtaining, let us say, a defense contract. That is one category with which existing law deals.

Another category would incude the officials and employees acting for the Government in any kind of a transaction or deal in which they have a personal interest. We have had some examples of that over the years. I would not wish to specify particularly, and to let it appear that I was invidious about it, because I think if anybody wishes to go to the history books he can easily find those cases.

There is a third class, which includes those persons who were once upon a time officers and employees of the Government and who have left the Government, who represent some private concern, and who probably have made representations in behalf of a contract or an undertaking prior to the lapse of the 2-year period which is required. In some cases it could be an inadvertence. In some cases it might be deliberate. But in any event there is law that is directed against a violation on that score.

Finally we have another category: Officers or employees who take pay from a private source for Government work, as in the case of an attorney, being paid by the Government and serving the Government, but also accepting pay from an outside source for work done for the Government.

Those are the statutes in general that we have today, and they are obfuscating, prolix, and difficult to determine. Certainly it is difficult for a layman, or his counsel back home, to determine precisely what he has to do in order to cleanse himself in the eyes of the statutes now on the books if he were to serve his Government.

The weakness in this entire setup is apparent. Look at the cases in which Government could well use the part-time services of people who are admittedly expert in their fields. Why should they, for part-time service, under existing law, agree to divest themselves of their interests, make a full disclosure of their holdings, and be interrogated and cross-examined on every holding that they have? Then they would always be subject to have raised the possibility that they forgot something, and might become guilty of perjury. Such talents as they have are denied to the Government if a man refuses under those circumstances to march before a committee of Congress and say, "I am sorry. I have lived my life pretty well. I have become an acknowledged expert in the field in

which I operate. I am willing to serve my Government. I am willing to come for a month, 3 months, or 6 months. But I am not willing to come and lay everything on the board because I do not have to, because I have made my mark in industry and business, and I do not care to go through that ordeal."

Then, of course, still another weakness is that under existing law public officials can retain many private interests that are probably incompatible with their duty. That subject has not been explored too deeply, but certainly ought to be clarified so the average citizen could himself, without the benefit of counsel, look at a lawbook and say, "This I could do. This I cannot do. This kind of position I could accept without getting into difficulty."

Finally there is the unwillingness of men of stature who would be glad to serve their Government but were not, and perhaps could not, in justice to themselves and their families, always divest themselves of all their holdings. That is no easy undertaking, and yet what a burden it is upon the conscience of a man to whom the country has been good, who would like to serve his Government, but who simply must say, "I am sorry. What Government demands by way of questioning, cross-examination, and divestiture of interest and all the other things that I see recited on the front page is too much for me. So I shall not subject my family to whatever that interrogation may disclose. I would prefer to sit back and pursue my vocation as I have done before."

We have statutes on this subject that go back to 1873. I trust the Committee on the Judiciary, on which I serve, will now find inspiration for accelerated action out of the very confirmation that is before us, and hasten the proposed modifications of existing law so that it will be much easier for patriotic and steadfast citizens who wish to serve their Government to come into Government service.

I yield the floor.

Mr. ANDERSON. Mr. President, my sole purpose in rising today is that my attention has been directed to a portion of the testimony before the Committee on Armed Services in the case of Mr. McCone, in which a Senator present at the hearing said that in his opinion the inquiry which the Joint Committee on Atomic Energy had held in 1958 with reference to some action in connection with the teachers in California was perhaps not as thorough as it might have been, or at least the published reports of the inquiry were somewhat short of satisfactory.

I only wish to say that the one who raised that question is one of our fine Senators, my close personal friend, and I find it extremely difficult to comment on the subject. I only hope that what I say can be dissociated from the other remarks which he made.

I do wish to say that the Joint Committee on Atomic Energy—certainly the Senate section of the committee—in my opinion has not been notorious in failing to investigate individuals. We have had many witnesses before the committee. I think the members of the committee have been careful in asking important questions.

On the particular subject to which I refer, while the published record does not show all the questions which were asked, I can assure Senators that a great many questions were asked, carefully probed, and not all that appeared ever reached the surface.

For example, the President of the United States nominated a man from Iowa to be a member of the Atomic Energy Commission. The investigation by the FBI was not as recent as it might have been. It was reasonably complete, and that investigation did not reveal anything with reference to the nominee which should have caused him any trouble.

At the same time, the then Chairman of the Joint Committee on Atomic Energy received a great many letters with reference to the nominee, and when it was impossible to get any further information on him, the then chairman, at his own expense, sent an investigator out to see if some additional information might be developed.

We had the assistance of a great Iowa newspaper, which I believe had been friendly to the nominee, but that newspaper also was anxious to find the facts. We studied them as carefully as we could. Subsequently we hired a special investigator as a member of the committee staff.

I wish to point out that though the nomination was sent up by a Republican President, every Republican member of the committee voted to employ the special investigator, because every member of the committee wanted the investigation to be complete. When the special investigator had finished his work it developed that the nominee desired to have his name withdrawn, and it was withdrawn. He had been involved in a banking transaction which was not frightful, but which had developed a little difficulty that he recognized might have been embarrassing to him at some subsequent time.

The point I wish to make is that the Joint Committee never published any report on all the investigations we went through. It never tried to show how many hours of work the committee put in on this problem. If one would look at the evidence turned in by the Joint Committee, he might say that the committee did nothing because the nomination was presented to it and subsequently withdrawn.

Now let me turn to another nomination, the nomination of Sumner Pike, made by a Democratic President. The first nomination was sent up on October 28, 1946, a recess appointment. The nominee took the oath of office. Then the full nomination was sent to the Senate. The nomination was sent to the Senate section of the Joint Committee. The committee reported favorably upon him, and the nominee was confirmed. But he came up for another term of office, and that particular time there was some objection to some of the things he had done. The Joint Committee had long open hearings, and then in executive session voted five to four to report the nomination adversely. Such action was taken. The Senate reversed the action of the Joint Committee and voted to confirm the individual.

I only point out that the Joint Committee did not merely take its work as a matter of course and go on their way. They made a careful study of the question.

There has been reference to a good deal of material that developed about Mr. McCone. It happens that in the files of the Joint Committee one would not find all the material that was gathered on Mr. McCone in the first days of the study.

I have a file before me which shows the name of a very distinguished former Member of the Senate, the late lamented Senator from New Hampshire, Mr. Bridges. I went to him because of the investigation that he had caused to be conducted by his committee. He did what people expected Senator Bridges to do, namely, he turned over to me such information as he had. I went through every piece of this information carefully and thoroughly. I asked the other members of the Joint Committee to sit with me in questioning Mr. McCone. Although the printed record of the hearings may not reveal in great detail the testimony that was taken, I can assure all Members of the Senate that a very careful check was made on all matters to which we had reference in connection with the matters that have been under discussion.

Another matter that I did not make public was the financial statement of Mr. McCone.

In meeting with Mr. McCone in the office of the then majority leader, Senator Knowland of California, I asked him for a complete financial report of everything he owned. He submitted it to me. He said he believed he did not need to do so, because he had already submitted one to the White House, which had been checked fully, and there had been no difficulty in connection with it. I still asked him for a complete financial report. He submitted it.

We went over that report very carefully. Mr. McCone and I went over it very carefully and other members of the Joint Committee on Atomic Energy joined us. It is a hard thing to review a man's financial resources and not rush out and publish everything about it. It is interesting to find an individual who owns a great many stocks but who lives modestly and plainly and does not display the fact that he is a man of substantial wealth.

We looked at the report very carefully. We made up a list as to which we said that those were stock that he ought to sell. I told him we thought he should sell those stocks. Of course I was not sitting in judgment. I had no authority to say that he ought to sell them. However, it bothered my conscience to have

confirmed any man owning stocks in companies which may have contracts with the Atomic Energy Commission. I told him:

You are likely to have some business dealings with these firms when you are on the Atomic Energy Commission.

He was surprised that I should say that with respect to one of these companies. He thought that that company never had had any business transactions with the Atomic Energy Commission, but it had. When he looked at the list, he said:

I do not object to these; I will sell these stocks.

He did sell them. Then we came to another group of stocks. I said:

These are not in a black and white class. This is a particularly difficult ground we are now on with respect to these stocks. However, if I were you, I would dispose of these stocks also. I agree that they are not in any way in conflict, but I think I would dispose of them also. I think you will feel better if you did so.

There was no argument about it. He put a check mark next to every one of them. He said:

I will dispose of these also.

Then we came to stocks that we thought he could safely hold, in which his interest was not such as to conflict with his responsibility on the Atomic Energy Commission.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. ANDERSON. I yield.

Mr. SYMINGTON. If the Senator will allow me to interpose at this point I should like to say that the nominee feels the same way about it at this time. Reading from the RECORD at the point where Senator SALTONSTALL was interrogating the nominee and where the Senator from Massachusetts had asked a question about the nominee's holdings. The nominee says:

In 1958, I turned the management of the shipping company over to others, and disassociated myself entirely. I then at that time placed the stock of those companies in trust in a bank, which was an irrevocable trust, revokable only when I left the Government.

Now, I have not placed that stock back in trust. I am perfectly willing to do so.

The witness said this on January 18, 1962.

Then, later in the testimony, with respect to this trust he said:

I have no objection to the establishing of an irrevocable trust if there is reason to do so. I felt the peculiar wording and restrictions of the Atomic Energy Act made it advisable to establish that trust at that time.

Mr. ANDERSON. I only say to the Senator from Missouri that this is not the class of stocks to which I refer. I shall come to them in a moment. There was a certain class of stocks that he could own openly or—I believe lawyers use the expression—notoriously. So there was not any possible conflict with respect to those stocks.

Then we came to a fourth group of stock, and I said:

I think on these, Mr. McCone, you ought to make a trust arrangement, so that you will not have any custody of them. The reason for it is that the Atomic Energy Act is peculiar. It does not permit a member of the Atomic Energy Commission to have any other business.

This was a 100 percent wholly owned company. While he was not going to devote any time to its management, I nevertheless said to him:

You do not want the charge to be made that as president and sole owner of the stock you had to be engaged in another business.

Therefore, he moved this stock into a trust arrangement.

Not only did he put them in a trust, but he submitted the trust agreement not only to the lawyers, but also to any member of the Joint Committee on Atomic Energy who wanted to look at it, to see if it was sufficient. I commended him for it, and I commend him now.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. ANDERSON. I yield.

Mr. SYMINGTON. My only point in bringing it up was that the nominee was completely willing to do whatever the Joint Committee on Atomic Energy thought should be done with respect to these holdings, which, as we both know, is not the case with all potential nominees. He did exactly what the chairman of the Joint Committee thought was right, and he also expressed the same thought before the Armed Services Committee, namely, that if the chairman and the committee thought it was the right thing to do, he was entirely willing to do it.

Mr. ANDERSON. I thank the Senator. I only say to him that this was not the action of the Joint Committee. It was merely the suggestion of the chairman of the Joint Committee. I said that I thought he would feel better if he made this disposition. He did exactly what was suggested. I made that suggestion, and he complied with it. That was typical of our entire dealings with him.

While it is true that not everything that took place appears in the record, there were many things that do not appear in the record that we did do.

I should like to give another case that came before the Joint Atomic Energy Committee. At one time a very fine scientist was suggested for membership on the Atomic Energy Commission. He was appointed by President Eisenhower, so we were not under any obligations to be extremely careful.

Some Members of Congress know that the Senator from New Mexico has not always been extremely careful in his relationship with people who get appointed. Here was a man who was named to membership on the Commission. I was tremendously interested because I had known of the man's work at Los Alamos. He telephoned me while I was in New Mexico and asked me if he could come to talk to me before his name was submitted. Of course, I was happy to have him do so. Dr. Von Neumann came to see me and read a long list of things that he had done which some people regarded as being foolish and which he felt would cause some people to classify him as being an extreme liberal, and he wanted to know if I thought that was bad. I assured him that I did not so regard it. I said to him:

If your name comes before the Joint Committee on Atomic Energy, you will have to speak on every one of these subjects and discuss every one of them.

At a later date he did come before the joint commitee in executive session and discussed every one of these things to which some people might have taken exception.

The things that he had done were based upon the fact that he had come into substantial amounts of money because of his inventive mind. If a friend was in need and came to him, he tried to help him.

We therefore examined Dr. Von Neumann in secret at first. Then in order that no one would be able to say that we did not cover the subject completely we held an open hearing, at which the able junior Senator from Tennessee [Mr. GORE] carefully phrased the questions and put them to the witness, so that the subject could be completely covered but without drawing other people into it.

We frequently do not put into the record everything that happens and everything that takes place. However, I wish to assure everyone that everything was carefully done. It is all very much like the case of an iceberg; not all of it is above the surface. Question after question was put to the witness carefully and thoughtfully, so that he might have a chance to testify as to what his relations had been and what had happened.

As many persons know, Mr. McCone was well liked by the members of the Joint Committee on Atomic Energy. I was in a strange situation, because people had worried that we might not get along together. I thought we got along splendidly. Other members of the committee thought the same.

So, as Mr. McCone was finishing his term of service in 1961, and Dr. Seaborg was coming in to succeed him, the Joint Committee on Atomic Energy had a special meeting in an afternoon. At that meeting, Mr. McCone gave his final report. At the very outset of it, I announced to the members of the committee that I hoped we might treat the session in two sections, one which would relate to Mr. McCone's final report, the other which would deal with our own expressions of feeling toward him. I wanted to make it possible to declassify

the minutes of the executive meeting and let them go into the record.

In my letter of February 13, 1961, I wrote to Mr. McCone, who was then in Los Angeles, having left the Government:

DEAR JOHN: As we both know so well, public life, and service has both rewards and penalties, pleasure, and regret.

It is my pleasure to send you a transcript of the words of praise and friendship extended to you by the members of the Joint Committee on Atomic Energy in our meeting on January 18. It is my regret that we will not be facing each other across the conference table again.

There is little I can add to what was said that last Wednesday except to stress the sincerity and unanimity in our appreciation of the contribution you have made to the country.

I then submitted to him a copy of the minutes of the meeting of the Joint Committee on Atomic Energy.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the text of my letter of February 13, 1961, and the portion of the minutes of the executive session which was informal.

There being no objection, the letter and minutes were ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON ATOMIC ENERGY,
*February 13, 1961.*

Hon. JOHN A. MCCONE,
*Los Angeles, Calif.*

DEAR JOHN: As we both know so well, public life, and service has both rewards and penalties, pleasure, and regret.

It is my pleasure to send you a transcript of the words of praise and friendship extended to you by the members of the Joint Committee on Atomic Energy in our meeting on January 18. It is my regret that we will not be facing each other across the conference table again.

There is little I can add to what was said that last Wednesday except to stress the sincerity and unanimity in our appreciation of the contribution you have made to the country.

Sincerely,

CLINTON P. ANDERSON,
*Chairman.*

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EXECUTIVE SESSION (INFORMAL), MEETING NO. 87–1–1, WEDNESDAY, JANUARY 18, 1961, OF THE JOINT COMMITTEE ON ATOMIC ENERGY, CONGRESS OF THE UNITED STATES, WASHINGTON, D.C.

The Joint Committee on Atomic Energy met, pursuant to call, at 2:30 p.m., in the committee room, the Capitol, Hon. CLINTON P. ANDERSON (chairman) presiding.

Present were: Senators CLINTON P. ANDERSON (presiding), JOHN O. PASTORE, ALBERT GORE, HENRY M. JACKSON, BOURKE B. HICKENLOOPER, HENRY DWORSHAK, and WALLACE F. BENNETT; Representatives CHET HOLIFIELD, MELVIN PRICE, WAYNE ASPINALL, WILLIAM BATES, and JACK WESTLAND.

Committee staff present: James T. Ramey, executive director, John T. Conway, George F. Murphy, Jr., and Carey Brewer.

Representatives of the Atomic Energy Commission: Hon. John A. McCone, Chairman; Hon. John S. Graham and Hon. Loren K. Olson, Commissioners; A. R. Luedecke, General Manager; Dwight A. Ink, Assistant General Manager; A. D. Starbird, Director, Division of Military Application; Howard C. Brown, special assistant to the Chairman; and Richard X. Donovan, special assistant for congressional relations.

Chairman ANDERSON. The meeting will come to order.

Today we meet with Mr. McCone for the last time prior to his leaving the chairmanship of the Commission on Friday. The purpose of our meeting is to permit Mr. McCone to give us his views on the status of the atomic energy program and the questions and problems which we face.

I would like to suggest that we withhold accolades as to Mr. McCone's abilities and accomplishments until the end of our session today in order to permit him to proceed in an orderly manner with his presentation. I will say, however, at this point that the relationship between Mr. McCone and me personally and, I believe, the other Members and the staff of the Joint Committee has been most cordial and constructive throughout the 2½ years he has been with the Commission.

I understand you have a prepared statement, Mr. McCone, which you will file with the committee, but that you will talk to us in a more summarized way from notes.

We have with us here today, also, General Starbird, who will be leaving the Commission in a week or so as Director of the Division of Military Application. We are going to miss his great participation and we are also going to miss his important contributions to the program.

Following our session we expect to have some refreshments and I hope that everyone will stay for a brief social gathering with Mr. McCone, the other Commissioners, General Starbird, and the staff of the Atomic Energy Commission.

Mr. McCone, will you please proceed?

Chairman MCCONE. Thank you very much, Mr. Chairman.

I would like to reserve for the end of my statement my comments as to the very warm and sincere feeling I have toward this committee and all of the members and the manner in which they have treated and cooperated with me.

(There followed a discussion of the various atomic energy programs which appears in a separate, classified transcript.)

I would like to close by thanking you, Mr. Chairman, and you, Mr. HOLIFIELD, and every member of this committee for the wonderful cooperation, friendship, and support you have given me. It has been a very gratifying and pleasing experience.

I want to thank Mr. Ramey and the staff also for the cooperation they have given us.

Chairman ANDERSON. I want to say, Mr. Chairman, I have tried to terminate your report only because I wanted every member of this committee, who wished to do so, to have an opportunity to put some words in the permanent record.

May I say first of all this has been a very pleasing and heartwarming experience for me. I have enjoyed working with you.

Incidentally, I am in the same situation as you are. I am leaving the chairmanship of this committee and will not return to it. Therefore, I am grateful for this opportunity to express in this closing year of my chairmanship the pleasure I have had in associating with you and to thank you for your many courtesies and constant understanding which I appreciate most sincerely.

Mr. ASPINALL, who could not remain, left a statement which he asked be inserted in the record at the appropriate place. This will be done.

Representative HOLIFIELD. Mr. Chairman, I would like to say this to Mr. McCone. I value highly the service you have rendered ever since you came on the Commission in 1958. I have never worked with a man whom I thought was more dedicated or applied himself more industriously and energetically to a position in the executive branch of the Government. I think you have rendered a great service. I appreciate the personal association I have had with you and the frankness and candor with which you have answered our questions and responded to our requests for information.

As you leave your place in the executive branch, I am confident that you do so with the high regard of all of our Members. I want to take this opportunity also to say that Mr. PRICE, who had to return to his office because of constituents, asked me to include him in my remarks and in those other laudatory remarks he knew would be made today. He shares in the high regard we all have for you.

Senator HICKENLOOPER. Mr. Chairman, it is a little difficult for each member of the committee to say the same thing in a different way, yet we all want to join in what has been said.

From a personal standpoint I want to say to you—and for the record—that you have brought as high a degree of capability and understanding to this job as an individual could bring. You are not a physicist, but you are an engineer of ability and you have a practical fundamental grasp of the subject matter and a capacity to get into these scientific matters from the standpoint of your background and training.

You have brought to the Commission the highest degree of business judgment—practical business judgment. I think that has been very important. After all is said and done, in my view the Atomic Energy Commission is not a scientific agency purely. It is an industrial production agency. It requires a combination of a high ability to grasp the scientific phases of the matter and a high degree of practical business, administrative and production knowledge. You not only have this combination of abilities, but you have displayed it unusually well.

There is no one who has occupied a position on the Commission who has enjoyed greater confidence or trust than you have. That is a matter of common agreement on this committee.

You have been extremely forward looking in your attitude and your devotion to this program. I met Dr. Seaborg outside just a few minutes ago and we recalled some of the early days in the committee, the whole project and some of our associations at that time. We both agreed the picture doesn't look the same today as it did 14 years ago. I don't know what it will look like in another 10 years, but I do believe your forward looking attitude in the programs which you have sponsored will have a great effect on the programs in the indefinite future.

I wish you well in the future. I wish you continued success. I hope you will have the satisfaction you deserve from again serving your Government in a most vital way.

Senator PASTORE. I associate myself with all of the statements that have been made.

However, let me say this. You have become, in my opinion, a model of what a dedicated and devoted public servant should be. There was a time in this committee when I was rather apprehensive at the relationship between the executive branch and the legislative branch. I think it has been through your strong personality and through your temperament that much of that disturbed atmosphere has been cleared. This committee has renewed confidence in the executive branch, for which you should take a great deal of credit.

I dislike to see you go, but after all you have your reasons. It has been a very illuminating and refreshing experience for me to be associated with you. I remember our very cordial relationship in Geneva. There it was my privilege to meet Mrs. McCone, the very charming and devoted lady who, I think, may be largely responsible for what you are. I congratulate you and I wish you many, many years of good health, success, and happiness.

Representative ASPINALL. Mr. Chairman, I too wish to join in the words of commendation which are being directed to the retiring Chairman of the Atomic Energy Commission.

I desire to thank Chairman McCone personally for the loyal, constructive, able, and effective service which he has once again rendered to his Nation and fellow men. The members of this committee, of the Congress, of the administration, and of the Nation shall be forever indebted to Chairman McCone for his dedication to service and the wise counsel and leadership which he has provided for the nuclear energy program during his encumbency of the office.

As he leaves our association, I wish for him life's better blessings—good health and sweet happiness. I sincerely hope that the association we have had together shall not be brought to an end, but, rather, that we shall find ourselves in his company ofttimes in the days and years ahead of us.

Senator GORE. Mr. Chairman, my predominant feeling today is a sense of loss both of a personal nature and of a public nature. Few men can bring to public service the personality and the intellectual capacity which Mr. McCone possesses and of which he has given so generously.

Senator PASTORE referred to the improved relationship between the Commission and the committee. That was much to be desired. I would that I could have some of the gentleness of manner which Mr. McCone nearly always demonstrated. [Laughter.]

And yet I love the Irish in him. It is there. I am glad it is there. The trouble is that—to make an invidious comparison—it is in me too much.

It is with genuine regret that I see you leave public service, John McCone, and if I have my way about it, you won't have the luxury very long. I think this country needs you. I shall undertake to persuade somebody to persuade you to get back into the service of the country.

Representative BATES. Mr. Chairman, I will not detain the committee with any extensive remarks. I have expressed personally to John the great respect I have for him and the work he has done.

I came on the committee about the same time he became Chairman of the Atomic Energy Commission. I did so with some consternation, having read in the newspapers of the bitter controversies which existed between some members of the Joint Committee and the Atomic Energy Commission. I have no firsthand knowledge of those circumstances and could not, and see no need to, pass judgment on the situation as it existed at that time. I do, however, wish to state that the extraordinary administrative qualities of John McCone brought about an atmosphere in these relationships that was pleasant and harmonious. He had that innate quality of balance that permitted him to be firm in principle, yet cooperative in understanding alternative points of view.

He has gained our respect and our admiration. He can leave his assignment with a great deal of pride. My only regret is that the country will lose the services of a distinguished servant and patriot.

Senator JACKSON. Mr. Chairman, I am sorry I can't stay for the reception after this meeting.

However, I do want to express my appreciation to Mr. McCone for the fine job he has done as Chairman of the Atomic Energy Commission. This is not his first service to the country. He has served in many other capacities. I remember particularly his outstanding work as Under Secretary of the Air Force at the same time Mr. Lovett was Secretary of Defense.

I want to say, Mr. McCone, that while we may not agree on every aspect of the atomic-energy effort, I do believe you have brought to the office a high degree of competence with your background as an engineer in private life and your administrative experience. You have handled your job well under what have been trying and difficult circumstances at times.

I personally wanted to come here today and express my appreciation for the service you have rendered the country.

Senator DWORSHAK. Mr. Chairman, I share the sentiments which have already been expressed by my colleagues, and I consider it a tragic loss that you are leaving the service of the Government at this time.

It has been a real pleasure for me to have the opportunity to work with you. You have dispelled the feeling I had 4 years ago when I became a member of the committee that we were to face constant turmoil and dissension in the relations of the Atomic Energy Commission and the Joint Committee which naturally impaired the progress which I have strongly desired be made in this field.

I want to express also the appreciation of the people of my State of Idaho for the very fine understanding you have displayed and the sympathetic cooperation you have extended in the management of the Idaho installation of the Atomic Energy Commission.

While recognizing the personal sacrifice you have made in leaving your home and your business in California to assume this great responsibility, I do share the hope of my colleagues that because of your dedication as an American patriot you will find it possible to assume other responsibilities in the future and continue to help our government solve many of the problems which so strongly affect the security of our Republic.

Representative WESTLAND. Mr. Chairman, after all of these statements that have been made, it is rather difficult to think of anything further to say.

I, like Mr. BATES, have been on this committee for 2 years. I consider it a real privilege to have served with this committee and to have been associated with you. I appreciate the many questions you have answered in words of one syllable; answers that have helped me to learn something about this industry and the problems facing the Nation in the atomic energy program.

There is no question in my mind, John, but that you have brought great prestige, nationwide to the Atomic Energy Commission, some of which has rubbed off on this committee, and has helped the atomic energy program in the United States and perhaps throughout the world.

I have admired you particularly for your stability in your decisions. Once made you have stood by them despite occasional contrary opinions from equally high levels in government. Having decided what you believed to be the right course for this country, you have maintained that position. To me this is a great character building example for, perhaps, all of us.

I have only one thing to add—I would say that I am sure your golf game will improve after you get away from this job. [Laughter.]

Senator BENNETT. John, you have heard all of these encomiums and these suggestions. It is my job to sum up and I will do it with the Biblical phrase, "Well done, thou good and faithful servant."

Chairman ANDERSON. Although this is something which has not been done before, I would like to ask permission to have these statements that have been made today transcribed in a separate record which would then be sent to Mr. McCone.

If there is no objection, that will be done.

The meeting is adjourned.

(Whereupon at 4:35 p.m. the meeting was adjourned.)

Mr. ANDERSON. Mr. President, I could place in the RECORD a great many other things. I simply wish to say that I believe the committee carefully considered Mr. McCone's qualifications before he officially became the nominee. Before his name was announced, I had sat down and gone over a great many things with him in the presence of the Senator from California, Mr. Knowland, and the Senator from Iowa [Mr. HICKENLOOPER]. Then I had had other extended conversations with him, trying to bring out facts which I thought were essential. If the Joint Committee did not do its work, then I am sorry; but I fully believe as much care was given to Mr. McCone's nomination as probably any committee in Congress ordinarily would pay to the usual nomination.

We were happy to see how the nomination worked out. We were very happy with the work Mr. McCone displayed. I think we tried to be extremely cooperative. I believe Mr. McCone tried to carry out the instructions of the President and, at the same time, deal with the committee, which was dominated by the opposite political party. It is a very difficult situation to carry out the wishes of a President who is of one political party and to deal with a committee composed of members, a majority of which are members of another political party. However, I think the nomination worked out very well.

I am happy to say that I enjoyed visiting with Mr. McCone and watching what he did. I for one wish to pay tribute to the fine way in which he operated as Chairman of the Atomic Energy Commission.

Mr. JACKSON. Mr. President, I wish to associate myself with the remarks of the able Senator from New Mexico [Mr. ANDERSON].

I have served for many years on the Joint Committee on Atomic Energy, both in this body and in the House. I know that what the Senator from Mexico has said today regarding the thorough investigation made prior to the action taken by the Joint Committee in approving unanimously Mr. McCone's nomination is true. I think it is unfortunate that these allegations are being dredged up all over again, after two committees, prior to the consideration of Mr. McCone's nomination by the Committee on Armed Services this year, had acted unanimously on his appointment, first, as Under Secretary of the Air Force in, I believe, 1948, and later, in 1958, when he

was appointed chairman of the Atomic Energy Commission.

Mr. President, it is not easy to get able and qualified men to serve in the area of national security. I have always been of the opinion that such men should be selected without regard to their partisan backgrounds. I have felt that the main criterion for consideration should be their ability and qualifications. I took this position before I was chairman of the Democratic National Committee, and I have taken the same position ever since. As a matter of fact, I took that position during the course of the campaign itself. The President of the United States stated very clearly during the course of the campaign in 1960 that he would select men in the area of national security without regard to party.

The President had many such precedents for the service of able men. In the Wilson administration, in the administration of Franklin D. Roosevelt, and in the Truman administration men have served who were not members of the Democratic Party.

From personal experience on the Joint Atomic Energy Committee I know a good deal about Mr. McCone's ability and his knowledge in the field of national security. I believe we are fortunate in being able to bring into the Government a man with Mr. McCone's background and experience.

Mention has been made earlier of some of the offices which Mr. McCone has held and in which he has served his country. I believe the distinguished Senator from Illinois [Mr. DIRKSEN] went into some detail in that respect. Suffice it to say that Mr. McCone served on the so-called Finletter Committee, the Air Policy Commission, in 1947. He served as a special deputy to the then Secretary of Defense, James Forrestal; then as Under Secretary of the Air Force; and subsequently as chairman of the Atomic Energy Commission.

Some persons have said Mr. McCone has not had experience in the field of intelligence. The point is that we need a man who has the judgment, commonsense, and administrative ability to deal with the many problems which arise in the position of Director of the Central Intelligence Agency. At least in my judgment, Mr. McCone has had experience in the broad area of national security that few people in Government have had. He is a good administrator.

I must also add that during his service as Chairman of the Atomic Energy Commission Mr. McCone foresaw what the Soviets would do, especially in the area of nuclear testing. The campaign against Mr. McCone stems, in fact, not from concern over the unfounded allegations of conflict of interest, but really because of concern for his hard, tough policy in relation to the Soviet Union. I know of my own knowledge how right Mr. McCone was concerning what the Soviets would do in the field of nuclear testing. He was honest and forthright in his dealings with the Joint Committee on Atomic Energy. He gave us his point of view. He stated his opinions candidly, fairly, and objectively. He took a position which was in disagreement with that of some members of his own administration.

I am confident that Mr. McCone as head of the Central Intelligence Agency will act from a broad, rich experience which will make it possible for him to serve effectively in this area. He will be intellectually honest in his judgments in evaluating the information which will be entrusted to him. We are indeed fortunate to have a man of his capacity willing to serve the country during this troublesome period.

Much has been said concerning an alleged conflict of interest. These allegations have been made before, as I have indicated, and have been unanimously rejected by three different committees, including the Committee on Armed Services, which heard his testimony. We had all the information before us. Some persons simply wish to bring out matters which have been completely refuted. These matters are raised now as part of the campaign against Mr. McCone—a campaign which stems mainly from disagreement with the hard policy he has always taken with reference to difficult decisions which must be made in the area of national security affecting our relations with the Soviet Union.

Mr. President, I am confident that Mr. McCone will be an able and an effective Director of the Central Intelligence Agency, and that he will faithfully discharge his duties in the interest of our national security. If there is an area in Government where we need men who are tough and hard and able administrators, rich with good sense and good judgment, and who will indeed take a hard, tough position, it is in the Central Intelligence Agency.

I am confident that Mr. McCone will be worthy of the trust—and it is indeed a great trust; it could be the security of our country—that we place in his hands when he undertakes to do this job. I can only say that it would be a tragedy if Mr. McCone were to embark on his new position with a substantial vote against him in the Senate.

Mr. President, we should give Mr. McCone a unanimous vote. I only hope that Senators who speak in regard to the nomination of Mr. McCone will weigh carefully their words and will make sure that they do not attempt to use arguments in the area of so-called conflict of interest as a means of justifying their opposition to him. If they believe he is not qualified they should state wherein he is not qualified.

But I hope and trust that the Senate will give Mr. McCone an overwhelming vote of confidence, so that when he embarks on his duties as Director of the Central Intelligency Agency he will know, and the country will know, that he has the full confidence and support of the Senate, which are so essential in connection with the doing of a very taxing and difficult job—one which is most difficult under even the best circumstances.

Mr. SYMINGTON. I associate myself with the remarks of the able Senator from Washington, one who has had so much experience working with the nomineee in broad and classified matters.

I shall speak briefly on this nomination before the vote.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. METCALF in the chair). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CLARK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## THE COLLEGE ACADEMIC FACILITIES AND SCHOLARSHIP ACT

Mr. CLARK. Mr. President, tomorrow in the House of Representatives, and later this week in the Senate, there will come before the Congress, for debate, the College Academic Facilities and Scholarship Act, which in this body is Senate bill 1241. The chairman of the Education Subcommittee of the Senate Committee on Labor and Public Welfare, the distinguished senior Senator from Oregon [Mr. MORSE] is unfortunately detained, because he is serving as a member of our delegation at the Punta del Este Conference, in Uruguay. He has obtained, on a State-by-State basis, statistical information which in his judgment would be of assistance to each of the Senators participating in the debate, and also would be helpful to the Members of the other body when they initiate their debate, tomorrow. He has asked me to have this material placed in the RECORD at his request, in order to help us in our consideration of this important matter.

The information developed consists of such items as current and projected college enrollment, financial assistance to students administered through the colleges and univerisities, data on the public junior colleges of each State, estimated expenditure of colleges and universities for student higher education, and college age population data.

Mr. President, I ask unanimous consent that the material to which I have alluded be printed in the RECORD at this point in my remarks.

There being no objection, the data were ordered to be printed in the RECORD, as follows:

## DIRECTOR OF CENTRAL INTELLIGENCE

The Senate resumed the consideration of the nomination of John A. McCone, of California, to be Director of Central Intelligence.

Mr. CLARK. Mr. President, I intend to address myself briefly, tomorrow, to the question of the proposed confirmation of the nomination of Mr. McCone to be Director of the Central Intelligence Agency.

However, I should like at this time to have printed in the RECORD, first, a copy of a memorandum on the conflict-of-interest point, prepared at my request by the Office of the Legislative Counsel. I ask unanimous consent that it may be printed at this point in the RECORD, in connection with my remarks.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

64 MEMORANDUM FOR SENATOR CLARK

This memorandum is written in response to your telephone request to this office on January 26, 1962, regarding the conflict-of-interest implications which might arise in the event that Mr. John A. McCone, who has been nominated by the President for the office of Director of the Central Intelligence Agency, is confirmed for that office by the Senate.

According to information furnished this office by you, Mr. McCone has substantial financial holdings in Standard Oil of California, trans-world carriers, and other shipping interests. Such information does not indicate whether Mr. McCone is an officer of any company or business organization, and it is not known to what extent, if any, the Central Intelligence Agency transacts business with those companies in which Mr. McCone holds a financial interest.

PROVISIONS OF LAW INVOLVED

Any conflict of interest likely to arise in the case of the Director of the Central Intelligence Agency (hereafter referred to as CIA) as a result of financial holdings by him of the nature referred to above would probably occur in connection with purchases and contracts made by the CIA. The conflict-of-interest statute which would be brought into question in such a situation is section 434 of title 18, United States Code, which provides:

"§ 434. Interested persons acting as Government agents

"Whoever, being an officer, agent or member of, or directly or indirectly interested in the pecuniary profits or contracts of any corporation, joint-stock company, or business entity, is employed or acts as an officer or agent of the United States for the transaction of business with such business entity, shall be fined not more than $2,000 or imprisoned not more than two years, or both."

The procurement authority of the CIA is contained in section 3 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a-403j). It provides:

"PROCUREMENT AUTHORITIES

"SEC. 3. (a) In the performance of its functions the Central Intelligence Agency is authorized to exercise the authorities contained in sections 2(c) (1), (2), (3), (4), (5), (6), (10), (12), (15), (17), and sections 3, 4, 5, 6, and 10 of the Armed Services Procurement Act of 1947 (Public Law 413, Eightieth Congress, second session) [now contained in chapter 137 of title 10, U.S.C.].

"(b) In the exercise of the authorities granted in subsection (a) of this section, the term "Agency head" shall mean the Director, the Deputy Director, or the Executive of the Agency.

"(c) The determinations an decisions provided in subsection (a) of this section to be made by the Agency head may be made with respect to individual purchases and contracts or with respect to classes of purchases or contracts, and shall be final. Except as provided in subsection (d) of this section, the Agency head is authorized to delegate his powers provided in this section, including the making of such determinations and decisions, in his discretion and subject to his direction, to any other officer or officers or officials of the Agency.

"(d) The power of the Agency head to make the determinations or decisions specified in paragraphs (12) and (15) of section 2(c) and section 5(a) of the Armed Services Procurement Act of 1947 shall not be delegable. Each determination or decision required by paragraphs (12) and (15) of section 2(c), by section 4 or by section 5(a) of the Armed Services Procurement Act of 1947 [now contained in chapter 137 of title 10, U.S.C.], shall be based upon written findings made by the official making such determinations, which findings shall be final and shall be available within the Agency for a period of at least six years following the date of the determination."

It should be noted that the term "Agency head" as used in section 3(d) above is defined in subsection (b) to mean the Director, or the executive of the Agency.

*Mississippi Valley Generating Case*

The most recent decision of the Supreme Court of the United States construing the provisions of section 434 of title 18, United States Code, is the case of the *United States* v. *Mississippi Valley Generating Company* (364 U.S. 520 (1961)).

In that case one Wenzell was an unpaid part-time consultant to the Bureau of the Budget in connection with preliminary negotiations which eventually led to a contract for the construction and operation of a powerplant to provide electric power for the Atomic Energy Commission. At the time such negotiations were being carried out Wenzell was also an officer and shareholder of an investment banking firm which was expected to profit, in the event the contract negotiations were successful, by becoming the financial agent for the project to be undertaken under the contract. The Court held that there was a conflict of interest on the part of Wenzell and that:

"Section 434 forbids a Government agent from engaging in business transactions on behalf of the Government if, by virtue of his private interest, he may benefit financially from the outcome of those transactions" (p. 562).

The Court was careful to emphasize that the holding quoted above was limited to the specific facts presented in that case. However, that case being the most recent one interpreting section 434, statements made therein by the Court (three Justices dissenting) must necessarily be relied upon in any attempt to determine the applicability of section 434 to a different set of circumstances.

The majority opinion discusses in some detail the origin, purpose, and scope of section 434. In that discussion the Court said:

"First. In determining whether Wenzell's activties fall within the proscription of section 434, we think it is appropriate to focus our attention initially on the origin, purpose, and scope of the statute. Section 434 is one of several penal conflict-of-interest statutes which were designed to prohibit Government officials from engaging in conduct that might be inimical to the best interests of the general public. It is a restatement of a statute adopted in 1863 following the disclosure by a House Committee of scandalous corruption on the part of Government agents whose job it was to procure war materials for the Union armies during the Civil War. The statute has since been reenacted on several occasions, and the broad prohibition contained in the original statute has been retained throughout the years.

"The obvious purpose of the statute is to insure honesty in the Government's business dealings by preventing Federal agents who have interests adverse to those of the Government from advancing their own interests at the expense of the public welfare, *United States* v. *Chemical Foundation* (272 U.S. 1, 16). The moral principle upon which the statute is based has its foundation in the Biblical admonition that no man may serve two masters, Matthew 6: 24, a maxim which is especially pertinent if one of the masters happens to be economic self-interest. Consonant with this salutary moral purpose, Congress has drafted a statute which speaks in very comprehensive terms. Section 434 is not limited in its application to those in the highest echelons of Government service, or to those Government agents who have only a direct financial interest in the business entities with which they negotiate on behalf of the Government, or to a narrow class of business transactions. Nor is the statute's scope restricted by numerous provisos and exceptions, as is true of many penal statutes. Rather, it applies, without exception, to 'whoever' is 'directly or indirectly interested in the pecuniary profits or contracts' of a business entity with which he transacts any business 'as an officer or agent of the United States.'

"It is also significant, we think, that the statute does not specify as elements of the crime that there be actual corruption or that there be any actual loss suffered by the Government as a result of the defendant's conflict of interest. This omission indicates that the statute establishes an objective standard of conduct, and that whenever a Government agent fails to act in accordance with that standard he is guilty of violating the statute, regardless of whether there is positive corruption. The statute is thus directed not only at dishonor, but also at conduct that tempts dishonor. This broad proscription embodies a recognition of the fact that an impairment of impartial judgment can occur in even the most well-meaning men when their personal economic interests are affected by the business they transact on behalf of the Government. To this extent, therefore, the statute is more concerned with what might have happened in a given situation than with what actually happened. It attempts to prevent honest Government agents from succumbing to temptation by making it illegal for them to enter into relationships which are fraught with temptation (*Rankin* v. *United States* (98 Ct. Cl. 357)).

"While recognizing that the statute speaks in broad, absolute terms, the respondent argues that to interpret the statute as laying down a prophylactic rule which ignores the actual consequences of proscribed action would be a violation of the time-honored canon that penal statutes are to be narrowly construed. But even penal statutes must be 'given their fair meaning in accord with the evident intent of Congress' (*United States* v. *Raynor* (302 U.S. 540, 552); *Rainwater* v. *United States* (356 U.S. 590, 593); *United States* v. *Corbett* (215 U.S. 233, 242)).

"In view of the statute's evident purpose and its comprehensive language, we are convinced that Congress intended to establish a rigid rule of conduct which, as we shall now demonstrate by analyzing each of the elements of the statutory prohibition, was violated by Wenzell" (pp. 548–551).

Particularly worthy of note in the foregoing excerpt (third paragraph) is the Court's construction of the statute to the effect that it establishes an objective stand-

ard of conduct, and that there is a violation of the statute whether or not positive corruption is involved and whether or not any actual loss is sustained by the Government. The Court indicated that the language of the statute establishes a rigid rule of conduct for Government officers and employees.

The Court rejected the argument of respondent that since Wenzell did not participate in the terminal negotiations which led to the final agreement his actions were too remote and tenuous to be considered "the transaction of business" within the meaning of the statute. In rejecting the argument the majority said:

"To limit the application of the statute to Government agents who participate only in the final formation of a contract would permit those who have a conflict of interest to engage in the preliminary, but crucial stages of the transaction, and then to insulate themselves from prosecution under section 434 by withdrawing from the negotiations at the final, and often perfunctory stage of the proceedings. Congress could not possibly have intended such an obvious evasion of the statute" (pp. 554–555).

This statement by the Court makes it quite clear that an agent of the Government who participates only in the formative stages of a contract may be guilty of conflict of interest even though he does not participate in the terminal negotiations. It does not resolve the question of whether an agent who participates only in the terminal negotiations, particularly if the participation is nothing more than perfunctory, transacts business within the meaning of section 434. It would not be unreasonable to conclude, on the basis of the Court's statement concerning the lack of knowledge of a conflict of interest on the part of Wenzell, that its ruling would be the same in both instances. With respect to that aspect of the case the Court said:

"However, even assuming that Wenzell did not think there was a conflict, that fact is irrelevant. As we have shown, the statute establishes an objective, and not a subjective standard, and it is therefore of little moment whether the agent thought he was violating the statute if the objective facts show that there was a conflict of interest" (p. 560).

In the Mississippi Valley case, the respondent asserted that Wenzell's activities did not fall within the statute because the corporation of which he was an officer had no more than a mere hope that it might receive the financing work if the contract negotiations were successful. Again, the Court rejected the argument saying that:

"If a contract between the Government and the sponsors was ultimately agreed upon, there was a substantial probability that, because of its prior experience in the area of private power financing, First Boston would be hired to secure the financing." (p. 555).

This language suggests that certainty of financial gain is not a necessary element of section 434, but that a substantial probability of such gain will suffice under that section. Indeed, the Court in its technical holding held if a Government agent may benefit financially from his transactions he violates the statute (p. 562).

*Discussion*

Obviously, section 434 would not come into operation if the CIA, during the period of Mr McCone's service as Director, were to have no business transactions with any of the companies in which he may be financially interested. Accordingly, the question to be considered here is whether an individual serving as Director of the CIA would come within the provisions of section 434 if the CIA were to transact business with one or more of the companies in which that Director holds substantial financial interests.

It is believed that the criminal sanctions of section 434 could not be successfully invoked against an officer or employee of the Government, even though that officer or employee possesses substantial financial interest in a company with which the department or agency in which he serves does business, if that officer or employee takes no part in the transaction of that business and has no supervisory or overriding authority with respect to the transaction of that business. The opinion in Mississippi Valley appears to be grounded upon the premise that the chief evil at which section 434 is directed is not the mere fact of the possession by a Government officer of a private financial interest in a business entity, but his undertaking to act on behalf of the Government in a business transaction with a business entity in which he has such an interest. Therefore, assuming that Mr. McCone in his capacity as Director of the CIA could divorce himself completely from any business transactions involving those companies in which he holds a pecuniary interest, he would certainly escape any conflict contemplated by section 434. Whether he could in fact (1) remove himself from all questionable transactions to the degree necessary to insure that no conflict of interest would arise, or (2) remove himself from all questionable transactions and perform the functions of the CIA in the best interests of the Government are questions of fact and policy which must be determined by the President and Senate and, therefore, cannot be answered here.

*Conclusions*

Although the Court in the Mississippi Valley case was careful to limit its holding to the facts before it in that case, the expressions therein contained would seem to support the following inferences:

1. If Mr. McCone were to serve as Director of the CIA, section 434 of title 18, United States Code, could have no application unless, during his incumbency, the CIA did in fact have business transactions with one or more of the companies in which he then had a financial interest.

2. If in his capacity as Director of the CIA Mr. McCone were to participate on behalf of the Government in a business transaction with a company in which he is financially interested and from which he might realize financial gain, the provisions of section 434 would become applicable whether or not Mr. McCone believed his actions to involve a conflict of interest.

3. The meaning of the term "transacts business," as used in section 434 has not been fully determined. Clearly a direct or indirect personal participation at any stage in the negotiation or execution of a particular contract on behalf of the Government would be included. The decision in Mississippi Valley suggests that the giving of approval to a contract negotiated by others probably would be regarded as such a participation. What other forms of action taken by a Government officer with respect to a contract which may be regarded as participation remains undecided.

Respectfully submitted.

HUGH C. EVANS,
*Assistant Counsel.*

Mr. CLARK. Mr. President, I ask unanimous consent that the Central Intelligence Agency rules on employee conduct—dealing with conflict of interest, and dated August 29, 1961—be printed at this point in the RECORD, in connection with my remarks.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Pennsylvania?

Mr. SYMINGTON. Mr. President, reserving the right to object, may I first look at the document?

Mr. CLARK. Certainly.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Pennsylvania?

Mr. SYMINGTON. Mr. President, I have a copy of the document of which the paragraphs of the able Senator from Pennsylvania are a part. This document was not furnished by the Central Intelligence Agency to the nominee. He therefore knew nothing of the rules in the document. Fortunately the nominee is completely in the clear because of his position before the Committee.

Mr. CLARK. Mr. President, will the Senator from Missouri yield?

Mr. SYMINGTON. Mr. President, the Senator from Pennsylvania has the floor, and has been kind enough to yield to me.

Mr. CLARK. Of course if the Senator from Missouri does not want this information in the RECORD, and if he therefore wishes to object, I shall be happy to withdraw my request. But these particular rules have been furnished at my request——

Mr. SYMINGTON. No, Mr. President; the Senator from Pennsylvania misunderstood. He is very fair. My point is that these rules and regulations, part of which the able Senator is placing the RECORD, were not given by the CIA to the nominee.

Mr. CLARK. I never said they were.

Mr. SYMINGTON. I know; but I mention this because the nominee has been entirely willing to abide by the committee of the Senate before which he has now appeared, as he was before the other committees before which he previously appeared.

I thank the Senator from Pennsylvania for his courtesy in yielding.

Mr. CLARK. I thank the Senator from Missouri for his courtesy to me, which is always very great, indeed.

Let me ask whether the Senator from Missouri desires to object to the request I have made.

Mr. SYMINGTON. No, Mr. President. I simply wished to make this point for the RECORD.

Mr. CLARK. I thank the Senator from Missouri.

Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection?

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

CENTRAL INTELLIGENCE AGENCY RULES ON EMPLOYEE CONDUCT, AUGUST 29, 1961

Pursuant to Executive Order 10939, issued May 5, 1961, calling on "each department and agency head (to) review or issue internal directives appropriate to his department or agency to assure the maintenance of high ethical and moral standards therein", the CIA issued rules on "employee conduct" on August 29, 1961. The rules contain the following sections:

"III. SPECIAL PROVISIONS

"b. Conflicts of interest.

"(1) DEFINITION.—A conflict of interest is defined as a situation in which an Agency employee's private interest, usually but not necessarily of an economic nature, conflicts or appears to conflict with his Agency duties and responsibilities. The situation is of concern to the Agency whether the conflict is real or only apparent."

* * * * *

"(3) Regulatory provisions.

"(c) Financial Interests. Employees may not (a) have direct or indirect financial interests that conflict substantially, or appear to conflict substantially, with their responsibilities and duties as Agency employees."

Mr. CLARK. Mr. President, I now ask unanimous consent to have printed at this point in the RECORD, in connection with my remarks, a memorandum prepared by the Office of the Legislative Counsel for the Senator from Virginia [Mr. BYRD] at the time when the nomination of Mr. McNamara to be Secretary of Defense was presented, because I believe there is some similarity between that situation with respect to possible conflict of interest because of stock holdings and the situation in regard to the nomination of Mr. McCone to be Director of Central Intelligence Agency.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

[U.S. Senate, Office of the Legislative Counsel]

MEMORANDUM FOR SENATOR BYRD OF VIRGINIA

Re possible conflict-of-interest aspects of a trust agreement proposed to be executed by a designee for appointment as Secretary of Defense

This memorandum is transmitted pursuant to your request for comment as to possible conflict-of-interest aspects of the trust agreement returned herewith.

FACTUAL BACKGROUND

It is understood that Mr. Robert S. McNamara, formerly president of the Ford Motor Co., and recently designated for appointment as Secretary of Defense, has indicated that he contemplates entering into a trust agreement in that form for the purpose of placing his personal affairs in such condition that action taken by him in the performance of the duties of the Office of the Secretary of Defense would not place him in violation of the Federal statutes commonly referred to as conflict-of-interest statutes.

For present purposes, the principal features of the proposed trust agreement may be described as follows:

1. Mr. McNamara would transfer to the corporate trustee designated in the agreement certain identified property, and such other property as Mr. McNamara might transfer later to the trustee.

2. For the duration of the trust, the trustee would have full power to invest, reinvest, manage, and control, subject to the investment directions of an investment adviser designated in the agreement, all property transferred by Mr. McNamara to the trustee.

3. The trustee would be authorized to invest the trust property (in conformity with directions received from the investment advisor) "principally in common stock and equity securities," and would not be limited as to any particular class or category of securities.

4. During the existence of the trust, the trustee would pay, from the income and principal of the trust property, to Mr. McNamara and to other persons and organizations designated by Mr. McNamara, such sums as may be prescribed from time to time in written directions given by Mr. McNamara.

5. During the existence of the trust, and while Mr. McNamara serves as Secretary of Defense, neither the trustee nor the investment advisor would disclose to Mr. McNamara or to any other person "any information concerning the investments of the trust estate," except that such information could be given:

(a) to brokers, agents, attorneys, and other persons with whom trust business is transacted;

(b) to Mr. McNamara to the extent required by him "for making reports or returns to any government authority"; and

(c) to Mr. McNamara to the extent that such information reflects the "net income and taxable income of the trust estate."

6. Mr. McNamara would reserve the right at any time to:

(a) alter or revoke the trust agreement;

(b) remove or replace the trustee; and

(c) cause a new investment advisor to be designated.

ASSUMPTIONS MADE

For the purposes of this memorandum it will be assumed that under the proposed plan:

1. Mr. McNamara would not serve concurrently as Secretary of Defense and as an officer, agent, or member of any business entity which transacts business with the Department of Defense.

2. Mr. McNamara, before assuming the office of Secretary of Defense, would dispose of all personal financial interests which might give rise to conflict-of-interest implications, and that during his service as Secretary of Defense he would acquire no such interests other than those which might be acquired by the trustee under the terms of the proposed trust agreement;

3. The trust agreement would be continued in effect without material change by Mr. McNamara during the period of his service as Secretary of Defense;

4. No requirement of State or Federal law would necessitate the disclosure by the trustee to Mr. McNamara of information concerning the identity of corporations or other organizations in which investments had been made by the trustee;

5. Mr. McNamara would not seek or acquire any such information from any other source during his service as Secretary of Defense;

6. Mr. McNamara, while serving as Secretary of Defense, would take no action incident to the procurement of any contract or the prosecution of any claim which might be in violation of section 281 or 283 of title 18 of the United States Code; and

7. While serving as Secretary of Defense, Mr. McNamara would receive no "salary" from any source other than the United States, "in connection with his services as such an official," prohibited by section 1914 of title 18, United States Code.

STATUTE INVOLVED

Upon the assumptions which have been made, any conflict-of-interest implications of the trust agreement which has been described would appear to arise from the provisions of section 434 of title 18, United States Code, which provides:

"§ 434. Interested persons acting as Government agents

"Whoever, being an officer, agent, or member of, or directly or indirectly interested in the pecuniary profits or contracts of any corporation, joint-stock company, or association, or of any firm or partnership, or other business entity, is employed or acts as an officer or agent of the United States for the transaction of business with such business entity, shall be fined not more than $2,000 or imprisoned not more than two years or both."

DISCUSSION

*1. The question presented*

There is no indication that Mr. McNamara would continue as an "officer, agent, or member" of any business entity after his appointment as Secretary of Defense. Accordingly, it would seem that the question for consideration is whether his beneficial interest in any securities acquired by the trustee under the proposed trust agreement might bring him into conflict with the section quoted above.

The trust agreement indicates that it is contemplated that the trust property would be invested principally in "common stocks and equity securities." To the extent that such investment were to be made in business entities having no business transactions with the Department of Defense, no problem would occur. However, the proposed trust agreement contains no express limitation with regard to the class of business entities in which trust funds may be invested. Accordingly, it is possible that such funds might be invested in concerns which will be engaged in transacting business with the Department of Defense during Mr. McNamara's service as Secretary. Therefore, the present inquiry requires consideration of the question whether any such investment might bring Mr. McNamara into conflict with the provisions of section 434.

*2. Significance of a beneficial interest in securities*

If, under the terms of the trust agreement or through any other means, Mr. McNamara were to acquire knowledge of the identity of any corporation in which the trustee had invested trust funds through the purchase of share capital and which was transacting business with the Defense Department, his possession of a beneficial interest in securities of that corporation probably would bring section 434 into application.

In a previous memorandum construing section 434, dated January 19, 1953, this office expressed the following view:

"The evident purpose of that section was to prevent an officer or employee of the United States from transacting business with a corporation or other entity in such a way that his action might result in direct or indirect personal gain through the acquisition of money or some other thing of value. Inclusion of the word 'indirectly' in the phrase 'directly or indirectly interested in the pecuniary profits or contracts of such corporation' suggests that the section extends to private gains which flow recognizably from profits or contracts even though the gains pass through other hands or instrumentalities before realization by the officer concerned.

"In the light of the relationship existing between a corporation and its shareholders, it seems quite clear that the interest of a shareholder in a corporation is of the kind included within that phrase. However, as a criminal statute, section 434 will be strictly construed, and it is very doubtful that the bare existence of such an interest would be regarded as sufficient ground for the visitation of criminal consequences. A clear showing of the presence, in a material degree, of the substantive evil at which the section is directed would seem to be a necessary element of proof. The existence of a nominal or trivial interest, such as the possession of a single qualifying share, or the possession of naked legal title to shares in which the beneficial interest is held by others, probably would not be enough. But a showing of an actual and beneficial interest of such magnitude as to demonstrate a probable influence upon the official actions of the officers concerned would seem to be sufficient."

The foregoing expression assumed knowledge by the shareholder of the identity of the corporation in which his investment was made. It also suggested the probability that the courts might apply to the interest of the shareholder a quantitative test of the magnitude of his interest in determining the application of section 434 to particular cases. The validity of that suggestion has been thrown into question by expressions contained in the majority opinion of the Supreme Court in *United States* v. *Mississippi Valley Generating Co.*, No. 26, October

Term, 1960, decided January 9, 1961. In that opinion it was stated that section 434 established "an absolute standard of conduct" which leaves no room for equitable considerations (pamphlet opinion, pp. 37, 43). A discussion of possible implications of that opinion is set forth hereinafter.

*3. Significance of the element of knowledge*

The novel element presented by the instant case arises from the provisions of the trust agreement which (with stated exceptions) appear to be intended to insulate Mr. McNamara from knowledge as to the identity of any business organization in which the trust funds may be invested. That element presents the question whether the possession of such knowledge by Mr. McNamara would be necessary to bring section 434 into application.

Section 434 does not expressly condition its application upon a showing of knowledge by a shareholder of the existence of his interest in a business organization with which he may transact business as a Government officer. Read literally, the section would apply to such a case notwithstanding the fact that the officer concerned in fact had no such knowledge. Any relief from the rigor of such a rule would require an interpretation under which the element of knowledge would be read into section 434 as a matter of Congressional intent or as a requirement necessary to sustain its validity. The legislative history of section 434 provides no answer to the question whether Congress intended such knowledge to be an element of the crime described therein, and no opinion of any Federal court appears to have given express consideration to that particular aspect of section 434. That question was not directly involved in the determination by the Supreme Court of the recent case of *United States* v. *Mississippi Valley Generating Co.*, No. 26, October Term, 1960, decided January 9, 1961.

In some instances the courts will read into a criminal statute a requirement of knowledge that is not set forth by explicit language contained in the statute. In other instances the courts wil decline to do so, and will enforce the statute acording to its literal terms. See Sayre, Francis B., "Public Welfare Offenses," 33 Columbia Law Review 55 (1933). Determination whether a criminal statute falls into one or the other of those categories frequently is difficult. As stated by the Supreme Court in *Morissette* v. *United States*, 342 U.S. 246, 260 (1952):

"Neither this Court nor, so far as we are aware, any other has undertaken to delineate a precise line or set forth a comprehensive criteria for distinguishing between crimes that require a mental element and crimes that do not. We attempt no closed definition, for the law on the subject is neither settled nor static. * * *"

In that case the Court held that intent was an essential element of an offense charged under 18 U.S.C. 641 which provides in part that "whoever embezzles, steals, purloins, or knowingly converts" property of the United States is punishable by fine or imprisonment even though intent is not an element specifically prescribed by the statute. The Court said (pp. 260–262):

"Stealing, larceny, and its variants and equivalents, were among the earliest offenses known to the law that existed before legislation; * * * State courts of last resort, on whom fall the heaviest burden of interpreting criminal law in this country, have consistently retained the requirement of intent in larceny-type offenses. If any state has deviated, the exception has neither been called to our attention nor disclosed by our research.

"Congress, therefore, omitted any express prescription of criminal intent from the enactment before us in the light of an unbroken course of judicial decision in all constituent states of the union holding intent inherent in this class of offense, even when not expressed in a statute. Congressional silence as to mental elements in an Act merely adopting into federal statutory law a concept of crime already so well defined in common law and statutory interpretation by the states may warrant quite contrary inferences than the sames silence in creating an offense new to general law, for whose definition the courts have no guidance except the Act. * * *"

The Court in the Morissette case, however, reaffirmed the decision in the case of *United States* v. *Valint*, 258 U.S. 250 (1922), which held that knowledge was not a necessary element in a violation of the Narcotic Act of December 17, 1914 (38 Stat. 785). In so doing, the Court recognized and discussed the evolution of a class of legal offenses which have become known as "public welfare offenses" in which intent is not an element necessary to the particular offense involved. Commenting upon such offenses, the Court said (pp. 255–256):

"This has confronted the courts with a multitude of prosecutions, based on statutes or administrative regulations, for what have been aptly called "public welfare offenses." These cases do not fit neatly into any of such accepted classifications of common-law offenses, such as those against the state, the person, property, or public morals. Many of these offenses are not in the nature of positive aggressions or invasions, with which the common law so often dealt, but are in the nature of neglect where the law requires care, or inaction where it imposes a duty. Many violations of such regulations result in no direct or immediate injury to person or property but merely create the danger or probability of it which the law seeks to minimize. While such offenses do not threaten the security of the state in the manner of treason, they may be regarded as offenses against its authority, for their occurrence impairs the efficiency of controls deemed essential to the social order as presently constituted. In this respect, whatever the intent of the violator, the injury is the same, and the consequences are injurious or not according to fortuity. Hence, legislation applicable to such offenses, as a matter of policy, does not specify intent as a necessary element. The accused, if he does not will the violation, usually is in a position to prevent it with no more care than society might reasonably expect and no more exertion than it might reasonably exact from one who assumed his responsibilities."

The offense described by section 434 appears not to be one "well defined in common law," or one for which the state courts "have consistently retained the requirement of intent." It does not appear to be a penal provision having as its main purpose the punishment of an individual for a wrong committed by him, but rather a provision of law enacted primarily for the purpose of protecting the public against persons who might compromise their positions as officers or employees of the Federal Government for their own personal gain. As such, it would appear to fall into the category described by the Supreme Court as "public welfare offenses," with respect to which the courts will not read in a requirement of knowledge which is not expressly set forth in the statute. The reasons for belief that section 434 is to be so regarded are described more fully in the following paragraphs of this memorandum.

*4. Implications of the Mississippi Valley Generating Company case*

The Mississippi Valley Generating Company case, referred to above, involved the application of section 434 to the activities of one Wenzell who, while serving as a temporary employee of the Bureau of the Budget and contemporaneously as an officer and shareholder of a banking corporation, participated on behalf of the United States in negotiations looking toward the formation of a Government contract in the execution of which that banking corporation might have been expected to participate. The Court held (3 justices dissenting) that section 434 "forbids a government agent from engaging in business transactions on behalf of the Government if, by virtue of his private interests, he may benefit financially from the outcome of those transactions" (Pamphlet opinion, p. 40), and that on the showing made in that case Mr. Wenzell had violated the provisions of that section. Accordingly, it determined that the contract could not be enforced against the Government (Pamphlet opinion, pp. 40–44).

The narrow, technical holding of the majority in that case is not directly determinative of the question considered in this memorandum. However, the majority and minority opinions of the Supreme Court in that case do contain the most recent and the most comprehensive expressions of the Court with respect to the application of section 434.

The following extract from the majority opinion (pamphlet opinion, pp. 26–29) demonstrates the broad scope given to that section by the Court:

"First. In determining whether Wenzell's activities fall within the proscription of Section 434, we think it is appropriate to focus our attention initially on the origin, purpose, and scope of the statute. Section 434 is one of several penal conflict-of-interest statutes which were designed to prohibit government officials from engaging in conduct that might be inimical to the best interests of the general public. It is a restatement of a statute adopted in 1863 following the disclosure by a House Committee of scandalous corruption on the part of government agents whose job it was to procure war materials for the Union armies during the Civil War. The statute has since been reenacted on several occasions, and the broad prohibition contained in the original statute has been retained throughout the years.

"The obvious purpose of the statute is to insure honesty in the Government's business dealings by preventing federal agents who have interests adverse to those of the Government from advancing their own interests at the expense of the public welfare. *United States* v. *Chemical Foundation*, 272 U.S. 1, 18. The moral principle upon which the statute is based has its foundation in the Biblical admonition that no man may serve two masters, Matt. 6:24, a maxim which is especially pertinent if one of the masters happens to be economic self-interest. Consonant with this salutary moral purpose, Congress has drafted a statute which speaks in very comprehensive terms. Section 434 is not limited in its application to those in the highest echelons of government service, or to those government agents who have only a direct financial interest in the business entities with which they negotiate on behalf of the Government, or to a narrow class of business transactions. Nor is the statute's scope restricted by numerous provisos and exceptions, as is true of many penal statutes. Rather, it applies, without exception, to "whoever" is "directly or indirectly interested in the pecuniary profits or contracts" of a business entity with which he transacts any business "as an officer or agent of the United States."

"It is also significant, we think, that the statute does not specify as elements of the crime that there be actual corruption or that there be any actual loss suffered by the Government as a result of the defendant's conflict of interest. This omission indicates that the statute establishes an objective standard of conduct, and that whenever a government agent fails to act in accordance with that standard, he is guilty of violating the statute, regardless of whether there is positive corruption. The statute is thus di-

rected not only at dishonor, but also at conduct that tempts dishonor. This broad proscription embodies a recognition of the fact that an impairment of impartial judgment can occur in even the most well-meaning men when their personal economic interests are affected by the business they transact on behalf of the Government. To this extent, therefore, the statute is more concerned with what might have happened in a given situation than with what actually happened. It attempts to prevent honest government agents from succumbing to temptation by making it illegal for them to enter into relationships which are fraught with temptation. *Rankin* v. *United States,* 98 Ct. Cl. 357.

"While recognizing that the statute speaks in broad, absolute terms, the respondent argues that to interpret the statute as laying down a prophylatic rule which ignores the actual consequences of proscribed action would be a violation of the time-honored canon that penal statutes are to be narrowly construed. But even penal statutes must be "given their fair meaning in accord with the evident intent of Congress." *United States* v. *Raynor,* 302 U.S. 540, 552; *Rainwater* v. *United States,* 356 U.S. 590, 593; *United States* v. *Corbett,* 215 U.S. 233, 242. In view of the statute's evident purpose and its comprehensive language, we are convinced that Congress intended to establish a rigid rule of conduct which, as we shall now demonstrate by analyzing each of the elements of the statutory prohibition, was violated by Wenzell."

The majority opinion clearly indicated that violation of section 434 requires no showing of any harm actually sustained by the Government, saying (pamphlet opinion, p. 37):

"It may be true, as the respondent asserts, that none of Wenzell's activities to which we have alluded adversely affected the Government in any way. However, that question is irrelevant to a consideration of whether or not Wenzell violated the statute. As we have indicated the statute is preventive in nature; it lays down an absolute standard of conduct which Wenzell violated by entering into a relationship which made it difficult for him to represent the Government with the singleness of purpose required by the statute."

The majority took the view that knowledge by Mr. Wenzell with regard to the existence of a conflict of interest arising from his duality of allegiance was immaterial, saying (pamphlet opinion, pp. 38–39):

"However, even assuming that Wenzell did not think there was a conflict, that fact is irrelevant. As we have shown, the statute establishes an objective, and not a subjective standard, and it is therefore of little moment whether the agent thought he was violating the statute, if the objective facts show that there was a conflict of interest."

The majority also rejected the contention that equitable considerations should preclude the application of section 434, saying (pamphlet opinion, pp. 39–40):

"The thrust of the arguments made by the respondent and adopted by the Court of Claims is that it would be unjust to apply the statute to one who acted as Wenzell did in this case. We cannot agree. The statute is directed at an evil which endangers the very fabric of a democratic society, for a democracy is effective only if the people have faith in those who govern, and that faith is bound to be shattered when high officials and their appointees engage in activities which arouse suspicions of malfeasance and corruption. The seriousness of this evil quite naturally led Congress to adopt a statute whose breadth would be sufficient to cope with the evil."

In declining to permit the contract in question to be enforced against the Government, the majority stated (pamphlet opinion, p. 41):

"As we have indicated, the primary purpose of the statute is to protect the public from the corrupting influences that might be brought to bear upon Government agents who are financially interested in the business transactions which they are conducting on behalf of the Government. This protection can be fully accorded only if contracts which are tainted by a conflict of interest on the part of a Government agent may be disaffirmed by the Government. If the Government's sole remedy in a case such as that now before us is merely a criminal prosecution against its agent, as the respondent suggests, then the public will be forced to bear the burden of complying with the very sort of contract which the statute sought to prevent. Were we to decree the enforcement of such a contract, we would be affirmatively sanctioning the type of infected bargain which the statute outlaws and we would be depriving the public of the protection which Congress has conferred.

The majority regarded its determination of nonenforceability to be a necessary consequence of the public policy underlying section 434, saying (pp. 42–43):

"The Court of Claims was of the opinion that it would be overly harsh not to enforce this contract, since the sponsors could not have controlled Wenzell's activities and were guilty of no wrongdoing. However, we think that the court emphasized the wrong considerations. Although nonenforcement frequently has the effect of punishing one who has broken the law, its primary purpose is to guarantee the integrity of the federal contracting process and to protect the public from the corruption which might lie undetectable beneath the surface of a contract conceived in a tainted transaction. Cf. *Crocker* v. *United States,* 240 U.S. 74, 80–81. It is this inherent difficulty in detecting corruption which requires that contracts made in violation of Section 434 be held unenforceable, even though the party seeking enforcement ostensibly appears entirely innocent. Cf. *Hazelton* v. *Sheckells,* 202 U.S. 71, 79. Therefore, even if the result in a given case may seem harsh, and we do not think that such is the case here, that result is dictated by the public policy manifested by the statute."

The emphasis given by the majority opinion of the Supreme Court in that case to (1) the remedial purpose of section 434, (2) the absolute standard of conduct established thereby, and (3) the immateriality of such factors as actual harm sustained by the Government, corrupt intentions on the part of the Government officer concerned, equitable considerations, knowledge by the actor that he was engaged in activities having conflict of interest implications, or the harshness of consequences which might flow from a strict application of the letter of the statute, suggests that it is more than a mere possibility that the Court might hold that absence of knowledge by a Government officer of the identity of a business organization in which he has a beneficial financial interest would not preclude the application of section 434 to his action in transacting business on behalf of the Government with that organization.

That view is suggested also by the manner in which the Court stated its technical holding. As formulated by the Court (pamphlet opinion, p. 40), its holding appears to lay emphasis upon the prohibition of action taken by an officer in transacting business on behalf of the Government with an organization "if, by virtue of his private interests, he may benefit financially from the outcome of those transactions." This suggests that the chief evil at which the statute is directed is not the possession of a private financial interest by a Government officer in a business entity, but the action of such an officer in undertaking to act for the Government in any dealing with such an organization while he possesses such an interest therein.

Viewed in that light, the expressions of the majority in the Mississippi Valley case suggest more strongly the probability that the Court might consider as immaterial the factor of knowledge by the officer of the existence or nature of his private financial interest. So regarded, the majority opinion would stand for the general proposition that it is the affirmative obligation of one who undertakes to act for the Government in the transaction of business with a private business organization to insure by all means available to him that he does not in fact have a direct or indirect pecuniary interest in that organization.

The minority opinion in the Mississippi Valley case does not appear to be in conflict with that view. Mr. Justice Harlan, writing for the dissenting justices, invited attention to the fact that decision with regard to the element of knowledge in section 434 was not required in that case (pamphlet opinion, p. 3, footnote 3). However, he indicated agreement with the majority of the Court as to the basic purpose and effect of the section by stating (pamphlet opinion, p. 4):

"The policy and rationale of the statute are clear: an individual who negotiates business for the Government should not be exposed to the temptation which might be created by a loyalty divided between the interest of the Government and his own self-interest; the risk that the Government will not be left with the best possible transaction is too great."

The apparent ground for the dissent of three justices was their conviction that section 434 had been misapplied by the majority because at the time of the performance by Mr. Wenzell of his activity on behalf of the Government there was no certainty that the bank corporation with which he was associated would engage in the performance of any contract which might be entered into through the participation of Mr. Wenzell.

If, in a case such as that of Mr. McNamara, a Government officer were to participate in the transaction of business on behalf of the Govermnent with business organizations in which he had in fact a financial interest, and the Court thereafter were to hold his knowledge thereof was immaterial, such a holding would throw into question the validity of all contracts entered into by that officer with such business organizations.

CONCLUSION

For the foregoing reasons, it is considered not improbable that, on the basis of the expressions of the Supreme Court in the Mississippi Valley case, a Federal criminal court might regard the provisions of the trust agreement proposed in the case of Mr. McNamara to be ineffective to preclude the application of section 434 of title 18, United States Code, to any situation in which he were to represent the United States in a transaction with a business organization in which the trustee under that agreement then held securities for the benefit of Mr. McNamara.

Respectfully submitted.

JOHN C. HERBERG,
*Senior Counsel.*

JANUARY 14, 1961.

Mr. CLARK. Mr. President, I also ask unanimous consent that a statement of facts prepared by my staff, at my request, from the hearings before the Senate Armed Services Committee, dealing with Mr. McCone's financial holdings, including stock in Standard Oil of California, in which the nominee is a substantial stockholder, and certain shipping interests be printed in the RECORD at this point in my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF FACTS FROM HEARINGS BEFORE SENATE ARMED SERVICES COMMITTEE ON NOMINATION OF JOHN A. MCCONE JANUARY 18, 1962

1. STOCKHOLDINGS IN STANDARD OIL OF CALIFORNIA

Mr. McCone stated that he owned a little in excess of $1 million of stock in Standard Oil of California (hearings, p. 55). He stated that the company had "extensive reserves in Arabia and in the offshore island in the Persian Gulf of Bahrein, and also extensive reserve in Sumatra, and Venezuela" (p. 67).

Standard Oil of California is one of the four companies which makes up the Arabian-American Oil Co. (Aramco), along with the Texas Co., Standard Oil of New Jersey and Mobil Oil. Aramco, according to Mr. McCone, does have relationships with the governments of Arabia and Bahrein (p. 69).

(Note: Standard Oil of California 8/1/61 report to stockholders lists Mr. McCone as owning 18,318 shares and as receiving 915 additional shares by way of stock dividend. Total holdings: 19,233 shares.)

2. SHIPPING INTERESTS

Mr. McCone stated "I have direct interest in Trans-World Carirers. * * * I have personally acquired and own now the great majority of the stock in San Marino Corp. and Joshua Hendy Corp. ond, therefore, through the sole ownership of Joshua Hendy, practically half of Trans-World Carriers at this point." (p. 66)

Joshua Hendy is exclusively engaged in the shipping business; in carrying ore to the South American trade; and in United States intercoastal trade, principally in chemicals. The company owns three or four ships in the intercoastal trade (pp. 68–69).

Senator CASE of South Dakota indicated that the ships in Mr. McCone's shipping enterprise and affiliated interests are engaged in carrying oil for Standard Oil of California (p. 67).

Mr. CLARK. Mr. President, I intend tomorrow to address myself more fully to the problem as to whether the Senate should or should not confirm this nomination. I put these memoranda in the RECORD now so that all Senators may be advised of them when the debate resumes tomorrow.

I yield the floor.

## ADJOURNMENT TO 11 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, if there is no further business to come before the Senate, I move that the Senate adjourn, under the order agreed to, until 11 o'clock tomorrow morning.

The motion was agreed to; and, as in legislative session (at 5 o'clock and 10 minutes p.m.), under the order previously entered, the Senate adjourned until tomorrow, Tuesday, January 30, 1962, at 11 o'clock a.m.

## NOMINATIONS

Executive nominations received by the Senate January 29, 1962:

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Jacob D. Beam, of New Jersey, to be an Assistant Director, U.S. Arms Control and Disarmament Agency.

U.S. MARSHAL

Alvin Grossman, of New York, to be U.S. marshal for the western district of New York for the term of 4 years, vice George M. Glasser.

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in rank as follows:

Lt. Gen. Earle Gilmore Wheeler, O18715, Army of the United States (major general, U.S. Army), in the rank of general.

## CONFIRMATIONS

Executive nominations confirmed by the Senate, January 29, 1962:

BOARD OF GOVERNORS, FEDERAL RESERVE SYSTEM

George W. Mitchell, of Illinois, to be a member of the Board of Governors of the Federal Reserve System for a term of 14 years from February 1, 1962.

DIPLOMATIC AND FOREIGN SERVICE

AMBASSADOR

William E. Stevenson, of Colorado, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Philippines.

ENVOY

William A. Crawford, of the District of Columbia, a Foreign Service officer of class 1, to be Envoy Extraordinary and Minister Plenipotentiary of the United States of America to Rumania.

SECRETARY OF THE NAVY

Fred Korth, of Texas, to be Secretary of the Navy.

ASSISTANT SECRETARY OF THE AIR FORCE

Neil E. Harlan, of Massachusetts, to be an Assistant Secretary of the Air Force.

ASSISTANT SECRETARY OF STATE

Frederick G. Dutton, of California, to be an Assistant Secretary of State.

UNDER SECRETARIES OF STATE

George W. Ball, of the District of Columbia, to be Under Secretary of State.

George C. McGhee, of Texas, to be Under Secretary of State for Political Affairs.

REPRESENTATIVE ON THE POPULATION COMMISSION OF THE ECONOMIC AND SOCIAL COUNCIL OF THE UNITED NATIONS

Dr. Ansley J. Coale, of New Jersey, to be the representative of the United States of America on the Population Commission of the Economic and Social Council of the United Nations.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

William C. Foster, of the District of Columbia, to be Director of the U.S. Arms Control and Disarmament Agency.

Adrian S. Fisher, of the District of Columbia, to be Deputy Director of the U.S. Arms Control and Disarmament Agency.

PRESIDENT'S SPECIAL REPRESENTATIVE AND ADVISER ON AFRICAN, ASIAN, AND LATIN AMERICAN AFFAIRS, AND AMBASSADOR AT LARGE

Chester Bowles, of Connecticut, to be the President's special representative and adviser on African, Asian, and Latin American affairs, and Ambassador at Large.

DIPLOMATIC AND FOREIGN SERVICE

U.S. AMBASSADORS

John O. Bell, of Maryland, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Guatemala.

John H. Burns, of Oklahoma, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Central African Republic.

Parker T. Hart, of Illinois, a Foreign Service officer of the class of career minister, now Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Saudi Arabia and Envoy Extraordinary and Minister Plenipotentiary of the United States of America to the Kingdom of Yemen, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Kuwait.

William J. Handley, of Virginia, a Foreign Service Reserve officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mali.

Ridgway B. Knight, of New York, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Syrian Arab Republic.

Henry R. Labouisse, of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Greece.

Armin H. Meyer, of Illinois, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lebanon.

Raymond L. Thurston, of Missouri, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Haiti.

John M. Cabot, of the District of Columbia, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Poland.

Philadelphia banks, borrowers in the larger categories could be well accommodated. This ignores again the realities of the situation and the positive testimony that in the larger industries, there is a decided reluctance on the part of financial officers to be made the subject of participating loans. With the originating bank, there is also an aversion to these loans as it requires considerable negotiation and technical handling which is to be avoided wherever possible.

The evidence demonstrated beyond peradventure of doubt that the Philadelphia area, plus parts of Delaware and New Jersey, and also New York City, as well as most of the northeastern part of the United States, is the area of active competition for Philadelphia commercial banks and for the proposed merged bank. The testimony discloses that the competitive effect upon all Philadelphia commercial banks will be minimal. The larger bank, however, will be able to compete on better terms and in a better atmosphere with the banks of other cities and States that have been draining this area of banking business which might well be and perhaps properly should be handled here, and which cannot be handled under present circumstances. That it will benefit the city and area has been established clearly by a fair preponderance of the evidence as has been set forth in the findings of fact of the defendants previously affirmed.

There is nothing in this record which supports the averments of the complaint that the proposed merger involves an unlawful combination in restraint of trade; would result in or tend toward monopoly, or violate the provisions of the Clayton Act, if applicable; and the proposed merger certainly violates no provision, either express or implied, contained in the Bank Merger Act of 1960.

Since the proposed merger contains none of the defects alleged in the Government's case and will be in the public interest, it follows that judgment must be entered in favor of the defendants and against the plaintiff.

## TVA'S TRIBUTARY PROGRAM

Mr. KEFAUVER. Mr. President, the proposed budget for fiscal year 1963 which President Kennedy recently submitted to the Congress envisages an important and historic step for the Tennessee Valley Authority.

It is proposed that the TVA spend $2.5 million during the coming fiscal year to begin work on the multipurpose development of the Beech River in west Tennessee. What distinguishes this resource development project from others in which TVA has heretofore engaged is: First, it represents TVA's first major move in the development of tributaries of the great Tennessee River; and, second, it calls for a sound new demonstration of the partnership for progress that has always existed among the TVA, State and local people in the Tennessee Valley.

One of the most enthusiastic and articulate advocates of the principle of tributary development by the TVA has been one of the Nation's great newspapers, the Nashville Tennessean. Therefore, it speaks with energetic authority in its comments of the Beech River project in an editorial appearing in that newspaper on January 19, 1962.

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

TVA'S TRIBUTARY PROGRAM MODEST, BUT SOUND, START

In his budget message to Congress yesterday, President Kennedy proposed a $2.5 million appropriation next year to initiate a tributary stream development program in the Tennessee Valley.

Under this proposal, developed by the Tennessee Valley Authority following a couple of Presidential promptings, the Beech River watershed of west Tennessee would be developed with a series of 14 small multipurpose dams and 80 miles of channel improvement, at an estimated total cost of $6 million.

It is a modest beginning. But it is a start. And a sound principle has been established for completion of the river basin development job upon which TVA embarked more than a quarter century ago.

The financing proposals suggested are entirely sound. Local and State participation are involved, it is true, but recognition is given to two facts upon which this newspaper has predicated its insistence that capital financing and planning originate at the Federal level:

1. Local governments in Tennessee simply do not have sufficient revenue sources to undertake the broadly based basin-type development which commonsense and good conservation practices dictate. With demands growing upon the State for more revenue for education, highways, etc., it is likely Tennessee, too, would find difficulty raising the needed funds.

2. TVA, long since created for the very purpose this proposal entails, is the proper agency to develop the plans, to control projects which are an integral part of the mainstem system, and therefore to supply the capital funds necessary.

In its announcement of the Beech River program, TVA has taken note of the lack of local revenues, but there is nothing at all amiss in its suggestion that "under this plan the portion of the system which is primarily beneficial to the local area would pay for itself." And we know by long experience that this sort of development produces both the benefits and the local revenues mentioned.

It was our hope that TVA would embark on a bit more ambitious plan such as the Elk River basin offers. But it seems the directors want to utilize the Beech River watershed program as something of a pilot project, and we see nothing wrong in this as long as they do not forget there are other areas of perhaps more significant need.

We shall, therefore, continue to press for a broadening of this program with its multipurpose functions, designed to lend greater emphasis to the conservation-development role of the Authority.

In a conservative Congress, approval of the TVA-Presidential request is not assured, of course. It is therefore imperative that the valley delegation, which has a vast future stake in this program though only one congressional district is immediately involved, stand united behind the traditional principles to which the people of this State and valley adhere.

## NEED FOR A REVIEW OF NATION'S TRANSPORTATION INDUSTRY

Mr. KEFAUVER. Mr. President, more than any similar event of recent years, the merger agreement by the Pennsylvania and New York Central railroads has pointed up the need for an overall review of the Nation's transportation industry.

Several days ago I proposed such a review by a Presidential commission. Now I note that the Nashville Tennessean, in an editorial on January 19, 1962, suggests that the Interstate Commerce Commission undertake a review of the entire rail system. However we may differ as to detail, we agree on the need for a study not confined to this proposed merger alone, and on the principle that monopoly must be avoided, competition preserved and the public interest protected.

I ask unanimous consent that the editorial appear at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

RAILROAD SYSTEMS REVIEW NEEDED

Formal agreement to merge the nation's two largest railroad systems—the Pennsylvania and the New York Central—is symptomatic of deep-rooted troubles in the entire rail industry which foreshadow other consolidations.

The two lines, which together represent some $5.4 billions in assets have agreed on merger terms. Many obstacles, including approval by the Interstate Commerce Commission, lie ahead, however. These could delay action possibly 2 years or more.

Both lines had rough going last year, although the Pennsylvania managed to end the year in the black. The merger, which would result in a 20,000 mile network formed by the two parallel systems, is estimated to save $100 million a year.

Many of these lines' financial troubles stem from overcapacity and excessive duplication of service. Few would argue that elimination of these weaknesses would, of themselves, bring about the kind of monopoly in railroad operation which made creation of the ICC necessary.

In various stages of negotiation are other mergers, including the Atlantic Coast Line and Seaboard Air Line; the Great Northern, Northern Pacific, and Chicago, Burlington, and Quincy; the Norfolk and Western and Nickle Plate; and the Chesapeake and Ohio and the Baltimore and Ohio. Each of these mergers would result in multimillion dollar operating cost economies.

The dilemma of the railroads, in fact, has reached such proportions that a piecemeal attack by separate consideration of individual merger plans is no longer adequate. What is indicated is a comprehensive review by the ICC of the entire rail system.

It should be reshaped to meet the demands of the times, with primary emphasis on protection of the public interest.

This means preservation of real competition, and protection of shippers, passengers, railroad workers, and the towns the roads serve. Crippling of the nation's lifelines must be prevented.

## UNANIMOUS-CONSENT AGREEMENT TO VOTE AT 2 P.M. WEDNESDAY, JANUARY 31, 1962, ON THE NOMINATION OF JOHN A. McCONE TO BE DIRECTOR OF CENTRAL INTELLIGENCE

Mr. MANSFIELD. Mr. President, I should like to have the attention of the Senate.

The VICE PRESIDENT. The Senate will be in order.

The Senator from Montana may proceed.

Mr. MANSFIELD. The Senate will recall that some time earlier it gave its consent to vote on the McCone nomination at 2 o'clock this coming Wednesday. The request was made on the assumption that the American congressional delegation to the Punta del Este Conference would return to Washington, D.C., at 9 a.m. Wednesday morning and that therefore the rights of a Senator would be well protected if the vote were taken at 2 p.m. that afternoon.

Due to the fact that the Punta del Este Conference is still in session; that decisions have not been reached; that a particular member of the delegation asked that the vote on the nomination be held up until his arrival; at this time, in furtherance of that request and in view of the circumstances involved, on the basis of the absence of a Senator due to a presidential appointment in effect to enable him to attend a conference, I wish to ask that the vote on the McCone nomination be held over until 2 o'clock on Friday next.

Mr. SALTONSTALL. Mr. President, I shall object. It will be the first time in 17 years I have objected to a unanimous consent request. I shall object because I believe this is an extremely important agency and I believe that we should act upon the nomination promptly. The nomination has been held over now for more than a week since the Committee on Armed Services reported the nomination unanimously.

Because of the importance to our national security and because of all the problems involved, I object.

I say to the distinguished majority leader that I believe it is quite clear the nomination of the gentleman will be confirmed, but in order to be courteous to any Senator who is away on a presidential commission I shall be glad to give that gentleman a live pair if I am told by the majority leader that there is any Member of that presidential commission who is a U.S. Senator who wishes to vote against the nomination of Mr. McCone. I say now publicly to the majority leader, if he will give me his word that man wishes to vote "Nay" I shall give the Senator a live pair, but I object to further postponement of the vote on the nomination.

Mr. MANSFIELD. Mr. President, I appreciate the courtesy of the Senator from Massachusetts, and I shall keep his suggestion in mind. He is always kind and considerate.

Mr. President, I ask unanimous consent, in view of the request made by our absent colleague, that the vote on the McCone nomination be deferred from 2 p.m. on Wednesday next until 2 p.m. on Thursday next.

Mr. DIRKSEN. Mr. President, I share the same feeling of distress about objecting. I know many Members have made plans contingent upon the vote coming on Wednesday as originally scheduled.

I am very reluctant to object. I think in the interest of the Senate, and the implied commitments that were made, I would have to object. I would also tender my services and offer a live pair to the Senator in question, because I presume his vote would be opposite mine. I make that tender now.

Mr. MANSFIELD. I do not know how our absent colleague would vote. He did request, though, that the vote be held up until his arrival. We have tried to comply with that request. The time was set for 2 p.m. on Wednesday next. It appears that there is no possibility of obtaining a further extension. So at this time I will make no further request. I thank the distinguished Senator from Illinois [Mr. DIRKSEN] for his offer.

## AID TO HIGHER EDUCATION

Mr. LONG of Missouri. Mr. President, last fall I acted as an intermediary in a very important exchange of correspondence between Dr. Elmer Ellis, president of the University of Missouri and the senior Senator from Oregon [Mr. MORSE] chairman of the Senate Subcommittee on Education.

Dr. Ellis in this correspondence raised a number of objections to S. 1241 as reported.

He questioned its program of loans only for the construction of academic facilities. He also questioned its provisions for the States rather than institutions of higher education to determine who receives scholarships. In place of S. 1241, he offered a number of alternative suggestions to aid higher education.

Since this bill will be laid before the Senate soon, I believe all Senators will find this correspondence of great interest. I, therefore, ask unanimous consent that Dr. Ellis' original letter, the reply of the senior Senator from Oregon, and the further letter of Dr. Ellis be printed at this point in the RECORD.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

OFFICE OF THE PRESIDENT,
UNIVERSITY OF MISSOURI,
*Columbia, Mo., September 19, 1961.*

Senator EDWARD V. LONG,
*U.S. Senate,*
*Washington, D.C.*

DEAR ED: I notice that the Senate Committee on Labor and Public Welfare has approved a version of Senate bill 1241 which is directly contrary to the interests of all State universities and colleges.

1. It offers loans but not grants for construction of academic facilities. This is absolutely of no use to any public institution in Missouri and almost no private college or university.

2. It offers grants for construction of academic facilities only to public community colleges. This is highly discriminatory against 4-year colleges and universities, public and private, and is highly discriminatory against certain States that do not have many junior colleges. While we will have more in Missouri in the future, still States like California, Iowa, and Texas which have a great many, would get most of this money. Moreover, why should the Federal Government discriminate against 4-year institutions if that is what other States need?

3. The bill would establish a Federal scholarship program administered through State commissions rather than through the colleges and universities. Personally, I have no particular enthusiasm for big scholarship programs but if we are to have it, it is far more sound and much cheaper to administer it through the universities and c[olleges] rather than through a State commis[sion]. Colleges and universities administer th[e] present loan program of the National Defense Education Act without criticism.

I would be glad to enlarge on any of these points if you wish. I think, however, it has become a very bad bill and should not be passed in this form under any circumstances. I am certain it is bad for the State of Missouri.

Cordially,

ELMER ELLIS.

U.S. SENATE,
COMMITTEE ON LABOR
AND PUBLIC WELFARE,
*October 5, 1961.*

Hon. EDWARD V. LONG,
*U.S. Senate.*

DEAR SENATOR: Thank you for bringing to my attention and that of my subcommittee, the September 19, 1961 letter addressed to you by President Elmer Ellis of the University of Missouri.

The points raised by President Ellis parallel views expressed by other educators in our hearings on S. 1241. I would only point out that, as indicated in the testimony of President Case of Colgate, which may be found on page 287 of the hearings, the committee did receive testimony that the loans are needed, are one practical way of meeting the urgent demands of academic facilities and would be used to the full extent of the $300 million a year authorized for the 5-year period.

It is true, that President Case would welcome matching grants to institutions of higher education. However, as I am sure you realize, in view of the controversy which has enveloped other educational bills this past session, it might be most difficult to enact an across-the-board grant proposal.

These difficulties can be summarized somewhat as follows:

If grants to public institutions of higher education only were to be adopted then strong protests could be expected from nonpublic institutions of higher education on the grounds of discriminatory treatment. It would be said that "the unity of higher education" was threatened. If grants are proposed for both private and church-related institutions of higher education serious objection could be expected to be heard from a broad spectrum of the American public which holds, with sincere conviction, that such a course in all probability would be repugnant to the first amendment of the Constitution. Furthermore, the claim could be made, and with considerable justification, that if such benefits were to be conferred upon both public and private institutions of higher education, then in all equity equivalent benefits should be made available to the nonpublic or church-related secondary and elementary schools. I am aware that there are those who would attempt to draw a strict distinction between elementary and secondary education on the one hand and higher education on the other, based upon the criterion of compulsory attendance. While I am cognizant of this line of reasoning, I find it personally very difficult thus to segmentize the Constitution. I have no doubt, however, that interest-bearing loans can meet the constitutional test, and that, as indicated by testimony, such a loan program would meet a current and pressing financial need of many institutions for instructional facilities. I suspect that present legal barriers under State law would be quickly overcome if the loan money were to be made available.

With respect to the grants contained in S. 1241 for the encouragement of junior college construction, I would point out the testimony presented to us indicated that publicly controlled community colleges are expanding in 41 States. In the fall of 1959,

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

## EXECUTIVE MESSAGES REFERRED

The PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting several nominations, which were referred to the Committee on the District of Columbia.

(For nominations this day received, see the end of Senate proceedings.)

## NATIONAL MEDIATION BOARD

The legislative clerk read the nomination of Francis A. O'Neill, Jr., to be a member of the National Mediation Board.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

## U.S. ARMY

The legislative clerk proceeded to read sundry nominations in the U.S. Army.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that these nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations will be considered en bloc; and, without objection, they are confirmed.

If there be no reports of committees, the clerk will state the nominations on the Executive Calendar.

## U.S. AIR FORCE

The legislative clerk proceeded to read sundry nominations in the U.S. Air Force.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that these nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations will be considered en bloc; and, without objection, they are confirmed.

## U.S. NAVY

The legislative clerk proceeded to read sundry nominations in the U.S. Navy.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that these nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations will be considered en bloc; and, without objection, they are confirmed.

## U.S. MARINE CORPS

The legislative clerk proceeded to read sundry nominations in the U.S. Marine Corps.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that these nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations will be considered en bloc; and, without objection, they are confirmed.

## ROUTINE NOMINATIONS ON THE SECRETARY'S DESK

### THE ARMY

The legislative clerk proceeded to read sundry routine nominations in the Army.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that these nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations will be considered en bloc: and, without objection, they are confirmed.

Mr. MANSFIELD. Mr. President, I unanimous consent that the President be immediately notified of the confirmation of all these nominations.

The PRESIDING OFFICER. Without objection, the President will be notified forthwith.

## DIRECTOR OF CENTRAL INTELLIGENCE

The Senate resumed consideration of the nomination of John A. McCone, of California, to be Director of Central Intelligence.

Mr. MANSFIELD. Mr. President, it is my understanding that the Senate is now in executive session, and that the pending business is the nomination of John McCone, of California, to be the Director of the Central Intelligence Agency.

The PRESIDING OFFICER. The Senator is correct.

Mr. CLARK. Mr. President, when the nomination of Admiral Strauss to be Secretary of Commerce was before the Senate for confirmation in 1959, I prepared a memorandum for my constituents, in which I stated my reasons for opposing the nomination. In that memorandum I outlined five characteristics which I believe any nominee for high public office should have if the Senate is to confirm his nomination for that office. Those characteristics are, first, integrity; second, stability; third, good judgment; fourth, adequate experience; and, fifth, associations, which of necessity would involve an inquiry as to whether any conflict of interest under the statute was involved.

I should like to discuss the pending nomination in the light of those standards. First, however, let me say that the nomination of Mr. McCone to be Director of Central Intelligence raises no issue between liberals and conservatives. It has nothing whatever to do with parlor pinks or members of the John Birch Society.

Those of us who support the President in practically all of his policies, as I do, and who with some regret differ with him on occasion, must nonetheless assure ourselves, in my view, that every nominee whom he recommends to us does have those characteristics of which I speak. I hope that everyone who calls himself a liberal and everyone who calls himself a conservative will measure up to the same standard with respect to these five characteristics, because in my opinion they have nothing whatever to do with one's political opinions.

I should like to discuss each of the five characteristics in turn. First, I have no question as to the integrity of the nominee. He is a man who has worked his way to the top of the business community, with not only consummate ability but also without any doubt of any kind being thrown on his honesty and integrity.

Second, I raise no question as to the nominee's stability. He has conducted himself under heavy pressure in an admirable manner during the course of both his private and public service.

I do have some question as to the nominee's experience for this job, and that point I shall discuss in a moment.

I have no question as to the nominee's business judgment. Clearly it is good, for he has made a fortune. I have no question as to his judgment when he served, I believe, under the Secretary of the Air Force or when he served as Chairman of the Atomic Energy Commission.

I do have some question as to his good judgment in terms of this particular office to which the President has nominated him. However, I would have to admit that my views in this regard must of necessity be speculative, because we cannot tell until after the event just how the strongly held views of a nominee on certain subjects might well affect his intelligence judgment—not his intelligence, but his judgment in the field of intelligence—and how they might or might not affect the public interest.

I believe that in the area of his associations, namely, the conflict-of-interest statute and its interpretation, there is very serious legal question as to whether it is not necessary for him to dispose of his stock in the Standard Oil Co. of California or, in the alternative, whether in his own interest it would not be wise to do so.

I shall return to that matter a little later in my speech.

First, I wish to discuss the subject of experience. The nominee himself has testified that he had had no experience for this job.

Perhaps this is not particularly important. I certainly had no prior experience before I became city comptroller of Philadelphia, before I became mayor of the city of Philadelphia, or before I became U.S. Senator. I am perhaps arrogant and conceited enough to think that despite that lack of experience I was able adequately to fulfill my duties.

Yet the position which the nominee is to fill upon the nomination of the President is not an elected public office but an appointed one. I believe a very real question arises as to whether it is sound practice to nominate for a position of this sort a man who heretofore has been without experience in the intelligence field.

Certainly this is the first time in the history of the Central Intelligence Agency that this has been done.

Mr. SYMINGTON. Mr. President, will the Senator from Pennsylvania yield?

Mr. CLARK. I would be happy to yield to the distinguished Senator from Missouri, and yield to him continuously. I do have a more or less logical argument I should like to present, but I shall be happy to yield.

Mr. SYMINGTON. I appreciate the courtesy of the Senator from Pennsylvania.

During the hearings when Mr. McCone came before the Committee on Armed Services, Senator SMITH voted that all previous nominees had had experience in the intelligence field. I said that that statement, to the best of my knowledge, was incorrect with respect to General Vandenberg. I was incorrect in that statement; General Vandenberg served 6 months, from January to June, 1946, as the head of intelligence on the General Staff. I am saying this to correct the record. As usual, the able senior Senator from Maine knows her facts.

Mr. CLARK. I appreciate what the Senator from Missouri has said. General Vandenberg was never Director of the Central Intelligence Agency, because that office was not created until 1947; and whatever intelligence duties General Vandenberg performed must, I believe, have been before the present statute.

Mr. SYMINGTON. General Vandenberg was the head of the Central Intelligence Agency, to the best of my memory, after Admiral Souers and Admiral Hillenkoetter. The point I wished to make was that General Vandenberg did have some intelligence experience.

In my opinion, no one could have been Under Secretary of the Air Force, which Mr. McCone was at the request of a Democratic President, without having obtained much experience in the intelligence field. No one could be chairman of the Atomic Energy Commission, perhaps the most sensitive position in the Government from the standpoint of intelligence except the CIA, without acquiring at least some experience in the intelligence field.

The nature of the positions which Mr. McCone has held under three Presidents—because actually he has been running the Central Intelligence Agency now for 2 months—I think justifies my position.

I now find that General Vandenberg was head of Central Intelligence before that agency became a statutory agency. He followed Admiral Souers and preceded Admiral Hillenkoetter.

The Senator from Pennsylvania is correct in saying that the Central Intelligence Agency was not a statutory agency until 1947.

Mr. CLARK. I thank the Senator from Missouri.

I resume my argument with the suggestion that since the Central Intelligence Agency was organized by statute, each of the three men who have been its chief has had substantial experience in the intelligence field before he became Director. The first of those men was Rear Adm. Roscoe Hillenkoetter, who served from May 1, 1947, and was the first statutory Director of the CIA. The second was Lt. Gen. Walter Bedell Smith, who served from October 7, 1950, to February 9, 1953. The third was Mr. Allen Dulles, who served from February 26, 1953, to November 29, 1961.

My position would be that any member of the Armed Forces of the United States of necessity, from the time he has gone through Annapolis or West Point, or whatever preliminary school he attended to qualify him for a commission in the Armed Forces, has an almost daily contact with intelligence, the collection, evaluation, and dissemination of information; and in most cases—and I think this is true of the members of the Armed Forces who served in this capacity as Director of the CIA—has, in one or another of his assignments, been in charge of the intelligence function, with whatever staff or command he might have been serving.

Mr. Dulles, as is well known, served for 2 years as Deputy Director of the Central Intelligence Agency before he became Director; and before that had had a long career in various most important offices affecting our foreign policy, our relationships with other countries, and the whole problem of the intelligence function, which involves, as I say, the collection, evaluation, and dissemination of information.

I do not quarrel much with the views of the Senator from Missouri in this regard. I should merely like to read into the RECORD a question asked at the hearings by the distinguished senior Senator from Maine [Mrs. SMITH], and the nominee's reply, as they appear on page 53:

> Senator SMITH. It is my recollection, Mr. McCone; that all of your predecessors had some prior training or experience in the field of intelligence prior to their appointment as Director of the Central Intelligence Agency. Will you tell the committee what training or experience you had in the field of intelligence prior to your appointment to that position?
>
> Mr. MCCONE. None.

The Senator from Missouri [Mr. SYMINGTON] may well be correct in saying that Mr. McCone was unduly modest; that in his capacity as Under Secretary of the Air Force and as Chairman of the Atomic Energy Commission he acquired adequate experience. But apparently the nominee himself thought otherwise.

While I think it unfortunate that for a position which the distinguished senior Senator from Georgia [Mr. RUSSELL] described, perhaps correctly, as second in importance only to that of the President of the United States, the President of the United States has seen fit to nominate an able businessman, who himself says he has no experience in this field, I may also say, along the lines of the speech of the distinguished junior Senator from Minnesota [Mr. MCCARTHY] yesterday that if this were the only matter in which the nominee was deficient—the only one of the five categories to which I referred before—I doubt that I would, on that ground alone, feel compelled to oppose the nomination.

Before I discuss the two areas in which I have serious reservations respecting the nominee—first, the objectivity of his judgment and, therefore, whether his judgment in the intelligence field will be good; and, second, the conflict-of-interest question—I shall digress for a moment to discuss what is the nature of the position to which the nominee has been appointed by the President, subject to confirmation of the nomination by the Senate. If one is to review the statute under which this agency was created, he does not get much guidance as to the actual workings of the job. Yet I think that in an empirical sense we who have been around Washington for awhile could summarize the job by saying that it consists of three parts: First, a substantial job of collecting, evaluating, and disseminating information with respect both to matters of foreign policy and of national security; second, the job of coordinating the collection, evaluation, and dissemination of information of an intelligence nature by others, such as the intelligence systems of the Army, the Navy, and the Air Force—and there are others, which need not be brought out in this debate; third, the operation of covert enterprises, colloquially known around Washington as the "Department of Dirty Tricks."

This is a function which we are told has been engaged in by governments since the beginning of civilization, and perhaps even before then. It is a function which we are told is absolutely necessary to our national security. It is a function in which the ordinary rules of right and wrong, of morality, of fair conduct between men and between nations, go by the board. It is a rather sad function. It is more or less a denial of all of the attributes of man in which we take the greatest pride. It is a function which most of us are most reluctant to see our Government engage in. I think almost every Member of this body would hope that it would not be necessary in the national interest to engage in the work of this "Department of Dirty Tricks." Yet I am not advocating that we no longer conduct such covert operations, whether in connection with the elimination of an unfriendly government in Guatemala—in the hope that our role would not be discovered; or in the conduct of undercover operations in the Middle East, with the assistance of oil companies, in order to try to hold the Middle Eastern oil for the West and to prevent the taking of adverse action by various Arab and Mohammedan governments who occupy territory in that area; or whether it be the overthrow of Mossedegh, in Iran; or the conduct of covert operations in southeast Asia. All of these actions may be necessary in the national interest; I do not say they are not. What I do say is that, first, the President, and, second, the Secretary of State, and, third, at least some Members of Congress—and Congress has the power to declare war—should have knowledge in advance and should be kept currently informed as to what the "Department of Dirty Tricks" has up its sleeve. The last and most notorious incident of that kind was, of course, that in Cuba.

It was said by the nominee and, indeed, by others in the course of the hear-

ings—and, in fact, it has been emphasized—that the Director of the Central Intelligence Agency plays no part in the making of policy. This may well be true with respect to his primary function, which is the collection, evaluation, and dissemination of intelligence; or with respect to his secondary function, which is the coordination of that work with the work of other agencies of the Government and private interests. But I suggest that with respect to covert operations, the Director of Central Intelligence does make policy, and it is a policy which may affect the lives and the wealth of many Americans.

Mr. President, in this connection I should like to quote from page 42 of the hearings before the Armed Services Committee, where the nominee said:

As I said, from the standpoint of my competence in office, it is my responsibility to report facts, and, furthermore, I think I should avoid, so far as possible, being drawn in on a personal basis into any policy discussions because that, to an extent, may have some effect on what people, the validity that people might attach to the facts.

However, I would expect that because of the various areas of activity that I have had in Government in the past, that maybe my personal opinion may be asked on some subjects. But in my role as Director of Central Intelligence, it would be beyond my competence to deal with policy.

Mr. President, I suggest that high policy was involved in the activities of the Central Intelligence Agency in each of the areas to which I had previously referred; and I am afraid it may be involved in the future. I hope it will not be; I hope the nominee will stick to the letter of what I have just cited as his view of the functions of his office, because if we are going to engage in these covert operations, they should never be started without the approval of the President and the approval of the Secretary of State; and the President and the Secretary of State should be kept advised constantly as to the progress of those operations, so they could call them off or could change direction at any time if it appeared to be in the national interest to do so. I feel very strongly, too, that under our constitutional system—so different from that of parliamentary countries—it is of the greatest importance that these covert operations be revealed on a classified basis in executive session, if necessary, or by private conversations to important Members, on both sides of the aisle, of both the House and the Senate.

So I have some doubts as to whether the nominee has the temperament, the background, and the kind of mind which qualify him not only to conduct these covert operations—which I say have become in the past, but I hope will not continue to be in the future, matters of policy—but also with respect to the daily reporting to the President of his evaluation of the intelligence which has been collected by the Agency and all other agencies over which he either presides or whose activities he coordinates.

This leads me to another subject, which is the future organization of the Central Intelligence Agency. The nominee told the committee that he had in mind a reorganization of the CIA. For that, I commend him. I suspect—although I do not know—that it is badly needed. I would hope very much that covert operations would be separated administratively from the collection and evaluation function. In my judgment, those covert operations should be divorced from the responsibility of the objective, judicially minded individual who should be the head of the CIA.

I would like to see a far tighter rein kept in the future than has been the case in the past with respect to these covert operations.

Perhaps it was quite appropriate for the nominee to be unwilling to reveal to the committee, at least in open session, what his reorganization plans are; but I would hope that when he is confirmed—and I have no doubt he will be confirmed—he will do what he said he was going to do and tell the appropriate Members of the Senate who should know about these things—and they are not all on the Armed Services Committee, by any means—just what he has in mind with respect to that reorganization, and seek, if not their consent, at the very least their advice.

I turn now to the last of my digressions, which is the question of the responsibility for the supervision of the Central Intelligence Agency by the Congress of the United States.

It was said in the hearings that the Armed Services and the Appropriations Committees of the Congress do exercise a certain supervision over the activities of the CIA. I am in no position to say whether that supervision is adequate or not. I merely raise the question as to whether a far deeper probing and a continuous probing into the activities of that Agency is not only a part of the congressional duty, but also in the national interest. It is true that the Armed Services Committee has handled Central Intelligence matters since the act was passed in 1947. I question whether, so far as congressional supervision is concerned, there is not a much stronger case to be made for having the oversea intelligence functions under the Foreign Relations Committee than under the Armed Services Committee.

I am seriously concerned at the growth in our country, during the last year or two, of a certain militaristic attitude toward the conduct of our foreign affairs. I am concerned that we tend to become unduly emotional in our conflict with communism—and a serious conflict it is. I feel we tend to deal with it in terms of a holy war, just as that which took place for 700 years between the Mohammedans and the Christians, or that which racked Europe in the 17th century as a result of the war between Catholics and Protestants.

I fear that we do not look objectively and calmly at negotiations looking toward peace, at the possibility of disarmament, at the possibility of the strengthening of the United Nations in the interest of peace, at the possibility of following out the President's sound premise for total and complete disarmament, under enforcible world law, laid down in his magnificent speech before the United Nations on the 25th of September.

What does all this have to do with the nominee, one may ask? I think it has just this to do with it. As someone said during the course of the hearings, or in one of the speeches—I guess it was the junior Senator from Minnesota—probably with reference to one of the executive agencies which from time to time looks at the CIA, the surveillance and supervision by Congress which has heretofore been given to the conduct of the operations by that Agency has been more in the nature of the polite inquiries of a visiting committee of alumni looking into the English department of the university from which they graduated than the kind of pretty tough supervision which the committees of this body give to a number of the other agencies of our Federal Government.

Again I say, Mr. President, I am in no position to make a categorical statement in this regard. I merely suggest to our colleagues and, through the CONGRESSIONAL RECORD, to the country, that this is a matter deserving of far greater consideration than we are able to give to it in connection with the consideration of this nominee.

I hope very much, once this nomination is out of the way, the appropriate committees of the Congress will not forget this matter, but will undertake, in consultation with the nominee when he becomes the Director of Central Intelligence, to see what can be worked out together to assure adequate supervision of an agency which, in its very nature, is very difficult indeed to supervise without the revelation of important facts and operations, which revelations might well not be in the national interest.

Mr. McCARTHY. Mr. President, will the Senator yield?

Mr. CLARK. I shall be happy to yield. I told the Senator from Louisiana I would like to finish my speech. I yielded to him once. I shall be happy to yield to the Senator, but I shall not be too long.

Mr. McCARTHY. The legislation under which the Central Intelligence Agency was established describes it purely as an executive agency and provides for a report to the National Security Council. There is no provision in the law which requires a report to any committee of Congress, and the report, or what is described as a report, to the Armed Services Committee is incidental and is not a matter of determination for Congress, and not a matter of determination of law itself. It is not necessarily arbitrary, but is a choice which is made by the executive agency itself. It is not under any direction by the Congress. The only legislative control exercised under statute is the incidental one which arises from the fact that every executive agency must come at some time to Congress for appropriations; but in most cases requests for appropriations come before the act, which is couched in very general terms, and after the act the power of the Appropriations Committee to determine action is of very little significance, as the Senator knows.

Mr. CLARK. The Senator is quite correct.

I call to his attention and to the attention of our colleagues subsection (c) of rule XXV of the Standing Rules of the Senate, which deals with the functions of the Committee on Armed Services. One will read through that subsection and look in vain to find a single peg on which to hang one's hat to ascertain that the Armed Services Committee has the slightest jurisdiction over the agency or intelligence generally; whereas, if one turns to subsection (i) of the same rule XXV, he will find that, under the functions of the Committee on Foreign Relations, the very first subsection is: "Relations of the United States with foreign nations generally"—the report upon which relations, indeed, is the principal function of the Central Intelligence Agency.

I would hope that the leadership on both sides of the aisle would give some consideration to whether the jurisdiction of this agency should not be moved under the Foreign Relations Committee.

I would also hope that the Committee on Government Operations would undertake a very careful investigation of the Central Intelligence Agency in the very near future for the purpose of assessing the effectiveness of its operations; the extent to which it should be reorganized, if at all; and to look very carefully into the question as to whether the "Department of Dirty Tricks" or covert operations should be separated from the intelligence governing functions which, without adequate background to make a considered judgment, I am presently of the view should be done.

I return, Mr. President, to the question of whether the nominee meets those last two characteristics to which I referred in the beginning of my remarks. First is the question of good judgment. My view on that is one which cannot possibly be sustained by a factual argument. I only say that in my opinion the Director of the Central Intelligence Agency should be a man of judicial temperament, a man who can weigh facts and law and opinion, correctly evaluate them, and state tersely and clearly the conclusion which results as he looks at different views.

Allen Dulles was a lawyer, but he was a man of great judicial temperament. He was objective. He was dispassionate. Perhaps he was not the world's greatest administrator, and I am sure he would be the first to admit he was not, but he was a man whose calm, cool, and considered judgment was entitled to the greatest of respect.

I raise the question as to whether Mr. McCone—able, intelligent, honest, stable—is a man of judicial temperament. I suspect that he is not. I am not, myself. I am an advocate. I believe in causes. I am convinced that peace and disarmament is the most important issue before the world today. I admit I cannot assess that problem with the calm, dispassionate objectivity which is desirable.

Mr. McCone is said to believe we should immediately resume nuclear testing in the atmosphere. He has believed this for some years. He opposed the moratorium. He feels it deeply in his bones. He has said so vigorously. I honor him for that opinion. As time goes on, it is becoming apparent that perhaps he is right. I do not think he was right in the first instance, but this is a matter of opinion. After all, when one finds one's self in the present situation with the Russians refusing even to negotiate any further, with the possibility of the national security involved, perhaps he is right now.

My real question is, Will not that strong, honestly held conviction not only about this question alone but also about a score of other matters, inevitably and perhaps subconsciously affect the objectivity and the validity of the evaluation of intelligence he will give to the President of the United States? If there is even a suspicion that this will be the case, should his nomination be confirmed for this position?

I have said to my friend from Missouri [Mr. SYMINGTON] privately, and I say it now publicly, that I should have been glad to support Mr. McCone to be Secretary of Defense or Secretary of the Army or Secretary of the Navy or Secretary of the Air Force, but I have very serious doubts as to whether a man of the temperament of an advocate is the proper kind of man to hold this most important position, in which judicial objectivity is of the highest importance.

Finally, Mr. President, I turn—and somewhat reluctantly—to the question of conflict of interest. I am not one who believes that our present conflict-of-interest laws are either wise or sound. I think they should be drastically revised in the interests of making it easier for able men from the business community and, for that matter, from our great labor unions, to come to Washington, D.C., and to serve the Government without having to be put on the gridiron with respect to theoretical conflict-of-interest considerations. I do say that as long as those laws are on the statute books they should be enforced, and in this instance I have a serious doubt amounting almost to a conviction that the holdings by Mr. McCone of over a million dollars' worth of stock of the Standard Oil Co. of California is both a legal violation of the conflict-of-interest laws but also a very unwise holding for him to continue. I hope very much that within the near future he will divest himself of that stock, not by putting it in an irrevocable trust in which he and his family will continue to have an economic beneficial interest from the holding, but by divesting himself of it by sale. This will be a sacrifice. This will cause him to pay a substantial tax. This will be perhaps unfair. However, if a man wishes to delve into the tortuous politics of the Middle East, where the relationships of the United States with the countries of Saudi Arabia, Jordan, Kuwait, Iraq, and Iran are concerned; if he wishes to inject himself into the tortuous politics of Castroism and his efforts to take over democratically elected governments in Latin America, such as Venezuela; then he should not have a substantial interest in any oil company, which inevitably is deeply involved in both the politics and economics of those countries.

I note parenthetically that the Armed Services Committee required Mr. McNamara to divest himself of his substantial stockholdings before recommending the confirmation of his appointment to the Office of Secretary of Defense a year ago, and the committee did not think Mr. McNamara's offer to place his stock in an irrevocable trust removed the conflict of interest.

I shall read into the RECORD a couple of excerpts from a memorandum furnished to me, at my request, by the legislative counsel which appears in full in the RECORD of January 29, 1962, at page 973.

First I refer to section 434 of title 18, United States Code, which deals with "interested persons acting as Government agents" and provides:

> Whoever, being an officer, agent or member of, or directly or indirectly interested in the pecuniary profits or contracts of any corporation, joint-stock company, or business entity, is employed or acts as an officer or agent of the United States for the transaction of business with such business entity, shall be fined not more than $2,000 or imprisoned not more than two years, or both.

That statute was recently interpreted very broadly by the Supreme Court of the United States in one of the cases arising out of the Dixon-Yates transaction, *United States* v. *Mississippi Valley Generating Company* (364 U.S. 520), in January of 1961. I shall read a couple of excerpts from the opinion of the Court:

> The moral principle upon which the statute is based has its foundation in the Biblical admonition that no man may serve to masters, Matthew 6: 24, a maxim which is especially pertinent if one of the masters happens to be economic self-interest. Consonant with this salutary moral purpose, Congress has drafted a statute which speaks in very comprehensive terms.

I paraphrase to say that the section is not limited in its application to Government agents who have a direct financial interest in the business entities with which they negotiate on behalf of the Government, or to a narrow class of business transactions. I resume the quotation:

> Nor is the statute's scope restricted by numerous provisos and exceptions, as is true of many penal statutes. Rather, it applies without exception, to whoever is directly or indirectly interested in the pecuniary profits or contracts of a business entity with which he transacts any business as an officer or agent of the United States.
>
> It is also significant, we think, that the statute does not specify as elements of the crime that there be actual corruption or that there be any actual loss suffered by the Government as a result of the defendant's conflict of interest. This omission indicates that the statute establishes an objective standard of conduct, and that whenever a Government agent fails to act in accordance with that standard he is guilty of violating the statute, regardless of whether there is positive corruption. The statute is thus directed not only at dishonor, but also at conduct that tempts dishonor. This broad proscription embodies a recognition of the fact that an impairment of impartial judgment can occur in even the most well-meaning men when their personal economic in-

terests are affected by the business they transact on behalf of the Government. To this extent, therefore, the statute is more concerned with what might have happened in a given situation than with what actually happened. It attempts to prevent honest Government agents from succumbing to temptation by making it illegal for them to enter into relationships which are fraught with temptation.

Then as the legislative counsel reviewed this case and the statute in substantially greater detail, he stated:

The language of the court suggests that certainty of financial gain is not a necessary element of section 434, but that a substantial probability of such gain will suffice under that section. Indeed, the court in its technical holding held if a Government agent may benefit financially from his transactions he violates the statute.

In conclusion the legislative counsel points out:

If Mr. McCone were to serve as Director of the CIA, section 434 of title 18, United States Code, could have no application unless, during his incumbency, the CIA did in fact have business transactions with one or more of the companies in which he then had a financial interest.

And again:

If in his capacity as Director of the CIA Mr. McCone were to participate on behalf of the Government in a business transaction with a company in which he is financially interested and from which he might realize financial gain, the provisions of section 434 would become applicable whether or not Mr. McCone believed his actions to involve a conflict of interest.

Finally, the legislative counsel said:

The decision in Mississippi Valley suggests that the giving of approval to a contract negotiated by others probably would be regarded as such a participation. What other forms of action taken by a Government officer with respect to a contract which may be regarded as participation remains undecided.

I turn now to the brief provisions dealing with conflict of interest which have been adopted by the CIA itself. Let me say that I have been reliably informed by my friend the Senator from Missouri [Mr. SYMINGTON], who is present in the Chamber, that the nominee did not know that these regulations of the Agency existed at the time he appeared before the Committee on Armed Services.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. CLARK. I am happy to yield.

Mr. SYMINGTON. It does not make any difference whether or not the nominee knew, because he did exactly the same thing before the Senate Committee on Armed Services this time that he did the last time when he appeared before the Joint Committee on Atomic Energy. Both times he offered to do anything the committee thought proper with his securities.

It cannot be construed as a criticism of the nominee that he does not handle his securities in accordance with the wishes of the Senator from Pennsylvania. The criticism should be lodged against the members of the Committee on Armed Services.

Mr. CLARK. Mr. President, I return to my quotation from the regulations of the Central Intelligence Agency dealing with the conflict-of-interest question. They were printed in the January 29 issue of the CONGRESSIONAL RECORD at page 974, at the bottom of the third column. I repeat them now:

(b) Conflicts of Interest.

1. Definition. A conflict of interest is defined as a situation in which an Agency employee's private interest, usually but not necessarily of an economic nature—

And I stress that language—

conflicts or appears to conflict—

I stress that language also—

with his Agency duties and responsibilities. The situation is of concern to the Agency whether the conflict is real or only apparent.

(c) Financial Interests. Employees may not (a) have direct or indirect financial interests that conflict substantially, or appear to conflict substantially, with their responsibilities and duties as Agency employees.

Mr. President, I now state briefly for the RECORD the facts gleaned from the hearings before the Committee on Armed Services with respect to the stockholdings of the nominee. These, too, appear in the January 29 RECORD at page 978, the first column:

Mr. McCone stated that he owned a little in excess of $1 million of stock in Standard Oil of California. He stated that the company had "extensive reserves in Arabia and in the offshore island in the Persian Gulf of Bahrein, and also extensive reserves in Sumatra, and Venezuela."

Standard Oil of California is one of the four companies which makes up the Arabian-American Oil Co. (Aramco), along with the Texas Co., Standard Oil of New Jersey and Mobil Oil. Aramco, according to Mr. McCone, does have relationships with the governments of Arabia and Bahrein.

I interpolate the note that Standard Oil of California in its August, 1961, report to stockholders, lists Mr. McCone as owning 18,318 shares, and as receiving 915 additional shares by way of stock dividend. The total value of 19,233 shares, according to New York Times listing for the $54.25 closing price of Standard Oil of California on the New York Stock Exchange yesterday, is $1,043,390.25.

Mr. President, I shall not deal in speculation. I shall not deal in published articles of syndicated columnists. I merely say that I think every well-informed American knows that the American oil companies are deep in the politics of the Middle East. We know also that the Central Intelligence Agency is deep in the politics of the Middle East. It is inconceivable to me that the Central Intelligence Agency representatives in the Middle East should not be in constant contact with the representative of the American oil companies in that area.

It may well be that sometimes the interests of the oil companies and the interests of the Central Intelligence Agency are not in accord, although most of the time they are. It has been widely alleged—and I have no way of knowing whether it is true or not—that in many instances the oil companies have been helpful to the Government of the United States, and no doubt to themselves also, in making arrangements for the Middle Eastern kingdoms and sheikdoms which involve business transactions covering large sums of money. I have no doubt that that will be the condition in the immediate future, for I see no immediate hope for the pacification of that unhappy area of the world; nor do I think it likely that in the years immediately ahead we will be able to avoid the type of covert operation in that area which I personally very much regret but which in all likelihood is in the national interest.

Accordingly, Mr. President, because I am of the view that the nominee by temperament is not qualified to hold a job calling for a judicial temperament rather than that of a protagonist or advocate; because I am concerned about his views toward peace in the world and concerned by his apparent view that there is little immediate chance of achieving it, and that sole reliance on military strength is a better policy—and in this, to be sure, I am paraphrasing, because I have no quotations, and I may be doing the nominee an injustice, although certainly in his public record he is one who has not been an advocate of the kind of policy which in my judgment represents the greatest chance of peace to our country; and finally, because I have come to the conclusion that his holding of stock in the Standard Oil Co. of California violates the law with respect to conflict of interest, I must regretfully oppose the nomination.

Mr. PELL. Mr. President, I rise to congratulate the Senator from Pennsylvania [Mr. CLARK] on his articulate, well-thought-out and brilliant speech.

Although I intend to vote for the confirmation of the nomination of Mr. McCone, I believe that the Senator from Pennsylvania and the Senator from Minnesota [Mr. MCCARTHY] have made a very real contribution to our understanding of the problem of the Central Intelligence Agency by the ventilation furnished by this debate.

I was particularly struck by the reference made by the Senator from Pennsylvania to the fact that he had little doubt as to Mr. McCone's ability, and that what was most important were the plans with regard to the organization of the CIA, which apparently is in very great need of reorganization.

I believe there are three areas of possible reorganization. The first was brought out by a picture which was printed in the January 14 issue of the Washington Post, which showed the Central Intelligence Building. An intern in my office counted the number of windows. There are 2,500 windows alone in the building, Mr. President. That fact would indicate that a very helpful start in its reorganization would be a reduction in its size.

The second reorganization, as the Senator from Pennsylvania has suggested, would be the separation of intelligence collection from the operations. Here, too, in the field of intelligence collection, there should be a further separation of covert collection of intelligence from overt research and analysis.

Third, Mr. President, I hope that the watchdog committee proposed by the Senator from Minnesota [Mr. MCCARTHY] may in fact come into being as a result of the debate on the nomination because—although I am misquoting Lord

Acton—absolute power corrupts absolutely, but unwatched absolute power corrupts even more absolutely.

Mr. SYMINGTON. Mr. President, I join the Senator from Rhode Island in saying I too have been interested to hear those constructive elements in the presentation which has been made this afternoon by the Senator from Pennsylvania.

Now back to the subject at hand. Mr. McCone believes, along with others, that the way to maintain peace is to stay strong so we can stay free

The Senator from Pennsylvania dwelt on the personalities of Mr. Dulles and Mr. McCone. I know both. In my opinion Mr. McCone has at least as judicious a temperament as Mr. Dulles and I respect them both.

The question of whether we should or should not take the Central Intelligence Agency away from the Armed Services Committee should not develop into criticism of how Mr. McCone will perform his job.

I have a short memorandum about conflict of interest and McCone's position.

The conclusions of the memorandum submitted to Senator Clark by Mr. Hugh C. Evans, Assistant Counsel, Office of Legislative Counsel, are that there will be a conflict of interest if:

One. While Mr. McCone is Director of CIA, the agency had business transactions with one or more of the companies in which he has, at the same time, a financial interest;

Two. In his capacity as Director, Mr. McCone were to participate on behalf of the Government in a business transaction with a company in which he has a financial interest and from which he might realize financial gain.

If either of the above events were to occur, there would be a conflict of interest.

Prior to the assumption of office, Mr. McCone submitted to the General Counsel of the CIA for examination a list of his financial holdings, to determine if any conflict of interest existed. The General Counsel of the CIA submitted to Mr. McCone a written opinion, stating that no conflict of interest could be found on the basis of his holdings; that the Agency had no contracts with any of the companies in which Mr. McCone owns stock; and that, under existing statutes and regulations, no conflict-of-interest situation existed.

As Mr. McCone testified at page 44 of the hearings, this entire matter was reviewed with the Assistant Attorney General, Office of Legal Counsel, Department of Justice, who concurred in the opinion of the General Counsel of the CIA.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the memorandum of January 15, 1962, entitled "Memorandum on Conflicts of Interest," having to do with Mr. McCone's financial holdings, signed by the General Counsel of the Central Intelligence Agency.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM ON CONFLICTS OF INTEREST

1. We have reviewed the list of Mr. McCone's financial holdings which is attached hereto.

2. Stock ownership as such is not barred by the conflict-of-interest statutes. The problem arises only if a person with pecuniary interest in a company acts as an officer or agent of the United States in the transaction of business with that company (18 U.S.C. 434). The Assistant Attorney General's memorandum to the assistant to the President in connection with Mr. McCone's proposed appointment to the Atomic Energy Commission stated that the mere coincidence of Mr. McCone's employment as Chairman of the Commission and the formation of a contract between the company and the Commission would not involve Mr. McCone in a violation of section 434. In this connection they cited an opinion by Acting Attorney General Rogers of August 5, 1957, in connection with the appointment of Mr. McElroy as Secretary of Defense. In this memorandum Mr. Rogers stated: "Although personal action on the part of the Secretary might pose a serious conflict-of-interest problem under section 434, I know of no judicial decision suggesting that the existence of ultimate official responsibility for all the activities of a department constitutes per se the 'transaction of business' within the meaning of section 434. Moreover, neither the express language of the section nor its legislative history are indicative of such a result."

3. I have had the companies shown on the list of Mr. McCone's holdings checked by the appropriate components of the Agency. We have no business negotiations or contracts within the meaning of section 434 with any of them. We have in the past had research and development and procurement contracts with one company, but at the present time we are merely following certain programs being carried out by the company for possible future interest.

4. I am of the opinion, therefore, that no question of conflict of interest arises out of the financial holdings of Mr. McCone. I have discussed this with the Assistant Attorney General, Office of Legal Counsel, Department of Justice, and he concurred in my opinion.

LAWRENCE R. HOUSTON,
*General Counsel.*

Mr. SYMINGTON. Mr. President, the Senator from Pennsylvania [Mr. CLARK] placed in the RECORD excerpts from the Central Intelligence Agency's rules on employee conduct, dealing with conflict of interest. This regulation on employee conduct was issued pursuant to the requirements of Executive Order No. 10939, in which the President directed each department and agency head to review and issue internal directives appropriate to his department or agency to assure the maintenance of ethical and moral standards therein. The agency regulation thus issued on August 29, 1961, was designed to acquaint employees and supervisors with proper standards of conduct and to encourage the bringing forward of all situations, even though they might only apparently involve conflicts of interest. It was intended that there be full and careful review of any potential situations involving conflict of interest, to determine necessary actions to be taken if any such situation did exist.

Mr. McCone followed that procedure by submitting to the agency, shortly after his nomination to the Office of Director of Central Intelligence was announced by the President, a list of his personal holdings so they could be reviewed.

As indicated, after thorough review by the Agency general counsel and approval by the Attorney General's office, it was concluded that no conflict of interest was involved.

A Member of this body told me he felt this opinion of the counsel of the Central Intelligence Agency was weak. The memorandum does not read weak to me. But to satisfy myself, I talked to the general counsel of the Agency concerning the question, and asked him:

Mr. Houston, some of my colleagues feel that the memorandum on conflicts of interest, which you wrote as of January 15 with respect to Mr. McCone's financial holdings, is weak.

It seems to me that it is a statement which says that he does not have a conflict of interest. Would you be good enough to let me know how you feel about it?

Mr. Houston dictated this reply:

While the memorandum necessarily discusses in detail the statutory restrictions on conflicts of interest, in writing it we took consideration all Agency policies and regulatory issuances, and in addition the overall position of the Director of Central Intelligence, and I felt that no aspect of these considerations presented a conflict of interest, and the memorandum so concludes.

I still believe this is the correct conclusion.

Let me say again that if there is any difference, it is a difference with the Armed Services' Committee, because Mr. McCone has agreed to handle his holdings as the committee believes desirable.

Mr. President, I yield the floor.

Mr. SMATHERS. Mr. President, I have carefully read the hearings before the Committee on Armed Services on the nomination of John A. McCone to be Director of Central Intelligence, and have concluded that in the light of his background and wide range of experience in positions of high public trust under both Democratic and Republican administrations, that the people of the United States are indeed fortunate to obtain his services once again.

Mr. McCone's outstanding qualifications, his tested ability and unquestionable character are matched by few men in public service. There is no question in my mind but that he will carry out his responsibilities with the same degree of distinction and honor in which he has performed in past positions of high public trust.

The President of the United States is to be congratulated on selecting an individual with such outstanding qualifications for this important and sensitive post of high public trust.

I shall vote for his confirmation.

## AMERICA AND THE SUPERPATRIOTS

Mr. McGEE. Mr. President, I invite the attention of Senators to a letter written to the editor of the Sheridan, Wyo., Press. The letter was written by Mrs. Edna Stewart, of Story, Wyo. In the letter she wrote of her faith in America and our basic freedoms, and directed particular attention to what she calls the superpatriots and their arbitrary attitude in regard to who is to

judge who is patriotic. The views she has presented in the letter are so well balanced and so stably put that I believe her letter should have much wider circulation than it would receive in the local press. Therefore I ask unanimous consent that the entire letter be printed at this point in the CONGRESSIONAL RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

READERS' VIEWPOINTS

EDITOR OF PRESS:

For a change, I should like to accentuate the positive, and I will begin by saying I think the United States of America is just fine and dandy the way she is.

Of course nothing in the affairs of men is quite perfect. We seem to have abroad in the land too many disgruntled frustrates who exist and have their being in a perpetual state of hate, fear and suspicion. It would be hard to say just what to do for what ails these people.

Among them is the candymaker from New Hampshire. In one way he reminds me a little of a much greater man than he, the genius industrialist, Henry Ford the first. The latter became somewhat swollen in importance perhaps, for after all he was a very important man. This man outside of his own sphere understood so little about the world about him that he thought single-handed he could stop World War I by sailing his "peace ship" to Europe. How unrealistic can a man get?

I say to all such men—stick to your lasts.

The word democracy is a bad word among the frustrates. They call it "mobocracy" and they are pleased to say that this country is a republic—not a democracy.

Most of us would proudly proclaim it is both.

Some of these people see a Communist behind every bush and resort to name calling. I myself have never seen a Communist or anyone I thought could be one and anyway I'll leave all that to J. Edgar Hoover who seems quite competent. I say to all such people stick to your last and mind your manners. Some of these people believe that special qualities for leadership lie with those whose ancestors have long been on these shores. Shades of Hitler. The master race, remember?

And then, the military heroes. In these spheres you must have a military hero. The Nazis had Horst Wessel and the Birchers have John Birch.

They hate what they call intellectualism. Yes, they may well hate the free play of intellect. They are smart enough to know their natural enemy. With them the people should be told what to do.

Among the superpatriots there are those who want to burn books. Again shades of Hitler. As for me I have every confidence in our teachers and schools and what's in the books. I'll gladly leave it to qualified people. I say to all self-appointed book burners, stick to your last.

The holier-than-thou, smug attitude of these superpatriots could well generate a little heat under the collar if it weren't for the saving grace of humor. Heaven knows, no saving grace of humor exists in their grim midst. But what a target for the Bob Newharts and Mort Sahls of this world and oh the sacrilege of it. Upstarts, fresh from the east side daring to have a hey day with the rock-ribbed patriots. Tut, tut, can such things be?

I say a little humility on the part of these superpatriots would grace them well.

In concluding, I would say that whatever comes the American people will never choose a sawdust Hitler for a leader.

It would be a pleasure to enumerate what some proven patriots have to say about this radical right, the self-proclaimed patriots, but time and space do not allow.

EDNA STEWART.

STORY.

## SECRETARY RUSK SUMS UP FREEDOM'S CASE

Mr. McGEE. Mr. President, I was very much impressed by excerpts from the address delivered by Secretary of State Dean Rusk to the Foreign Ministers at the meeting of the Organization of American States now going on in Punta del Este, Uruguay.

In itself, his message constituted such a ringing statement of confidence in the basic operations of a free society and in our competitive capabilities in a jungle world with communism and communism's well-advertised goals, that I believe these excerpts from his address deserve much wider circulation, in order that many more Americans may be able to read them.

I wish to read the concluding paragraph, which is exceedingly eloquent. Secretary of State Rusk said:

Communism is not the wave of the future. Communists are only the exploiters of people's aspirations—and their despair. They are the scavengers of the transition from stagnation into the modern world. The wave of the future is the peaceful, democratic revolution symbolized for the Americas in the alliance for progress—the revolution which will bring change without chaos, development without dictatorship, and hope without hatred.

I ask unanimous consent that the entire report on the address by Secretary of State Rusk be printed at this point in the CONGRESSIONAL RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

RUSK SUMS UP FREEDOM'S CASE

(By Secretary of State Dean Rusk)

(These excerpts are taken from Secretary Rusk's Thursday speech before the hemisphere foreign ministers' meeting in Punta del Este, Uruguay.)

There are those in every land who resist change, who see the society they know as the climax of history, who identify their own status and privilege with the welfare of their people, and who oppose the vital land and tax reforms necessary for the completion of our work. But their resistance is doomed to failure.

The 19th century is over; and, in the 20th, people across the earth are awakening from centuries of poverty and oppression to claim the right to live in the modern world. "The veil has been torn asunder," wrote Bolivar, "we have seen the light; and we will not be thrust back into the darkness." No one can hope to prolong the past in a revolutionary age. The only question is which road we mean to take into the future.

This is not a question alone for this hemisphere. It is a question faced everywhere in the world. On the one hand are those who believe in change through persuasion and consent—through means which respect the individual. On the other are those who advocate change through the subjugation of the individual and who see in the turbulence of change the opportunity of power.

History shows that freedom is the most reliable means to economic development and social justice, and that communism betrays in performance the ends which it proclaims in propaganda. The humane and pragmatic methods of free men are not merely the right way, morally, to develop an underdeveloped country; they are technically the efficient way.

If there is tension in Berlin today, it is because of the failure of the regime in East Germany and the flight of tens of thousands of its people toward freedom and expanding opportunity.

Recognizing its failure in the underdeveloped world, recognizing that its greatest enemy is the process of peaceful and democratic development, communism in recent years has concentrated—in Asia, in Africa, in the Middle East, now in our own hemisphere—on using the troubles of transition to install Communist minorities in permanent power. The techniques by which communism seeks to subvert the development process are neither mysterious nor magical. Khrushchev, Mao Tse-tung, and Che Guevara have outlined them in frankness and detail. They seek first to lay the political basis for the seizure of power by winning converts in sections of the populations whose hopes and ambitions are thwarted by the existing order. Then they try to capture control of broadly based popular movements aimed ostensibly at redressing social and economic justice.

In some cases they resort to guerrilla warfare as a means of intimidating opposition and disrupting orderly social progress. At every point the Communists are prepared to invoke all the resources of propaganda and subversion, of manipulation and violence, to maximize confusion, destroy faith in the democratic instrumentalities of change and open up the way for a Communist takeover.

As for its claim to social justice, Chairman Khrushchev himself has given the most eloquent testimony of the inevitability of monstrous injustice in a system of totalitarian dictatorship.

Nothing shows more clearly the failure of communism to bring about economic development and social justice than the present condition of Europe. The bankruptcy of communism is etched in the contrast between the thriving economies of Western Europe and the drab stagnation of Eastern Europe—and it is symbolized in the wall of Berlin, erected to stop the mass flight of ordinary people from communism to freedom.

The proponents of free society need have no apologies. We have moved far beyond the rigid laissez-faire capitalism of the 19th century. The open society of the mid-20th century can offer the reality of what the Communists promise but do not and cannot produce—because the means they are using, the techniques of hatred and violence, can never produce anything but more violence and more hatred.

Communism is not the wave of the future. Communists are only the exploiters of people's aspirations—and their despair. They are the scavengers of the transition from stagnation into the modern world. The wave of the future is the peaceful, democratic revolution symbolized for the Americas in the alliance for progress—the revolution which will bring changes without chaos, development without dictatorship, and hope without hatred.

## THE TARIFF NEEDS AN ADULT APPROACH

Mr. McGEE. Mr. President, yesterday there was published in the Washington Evening Star an article which the distinguished columnist, William S. White, wrote on the tariff problem which

will face this body in the days ahead. The article is an appraisal of President Kennedy's trade ideas. Bill White's suggestion is that there is no place for petty partisanship in the consultations, deliberations, and controversies which will arise over the new approach to our trade problems. I believe his article warrants reprinting in its entirety in the CONGRESSIONAL RECORD, and I ask unanimous consent that that be done.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TARIFF NEEDS AN ADULT APPROACH—APPRAISAL OF KENNEDY'S TRADE IDEAS IS NO PLACE FOR PETTY PARTISANSHIP

(By William S. White)

The great, grave issue of this year—and perhaps of many years to come—has now at last been formally put before the country.

This is President Kennedy's long message to Congress asking for unexampled presidential authority to cut tariffs in vast sweeps. The central purpose is to associate this Nation with the six-nation European Common Market and so to enter a new world of immensely enlarged trade with all its opportunities—and all its possible trials and dangers.

The hour has struck for bigness—for big ideas, for big debates among big-minded men. It is much too late now for littleness—for little ideas, for little disputes among little-minded men, for petty partisanship, for girlish screaming over tags like "liberal" and "conservative," for frantic worrying over who is a Democrat and who a Republican.

For this is not a Republican issue, not a Democratic issue. This is an all-American issue. This is not something to be resolved by two-bit manifestos. This is not to be discussed as though it were a public housing bill or some mere good guy-bad guy contest.

The opportunity is at hand for the most thoughtful, the most adult, the most responsible national debate we have known since World War II. And the duty, as well as the oppotrunity, for just such a debate is also at hand.

Mr. Kennedy has massively influential support here—from the largest of large business; from the most articulate, generally, of the private voices of this country; from such outstanding Republicans as Dwight D. Eisenhower and former Secretary of State Christian Herter.

The opposition, actual and latent, is more dispersed and, on the whole, less blessed with "names." It is, however, a formidable and honest opposition which is enfitled to be heard in full respect and understanding. For it is no good denying that this plan will work some scattered hardship, among communities and industries which have thus far remained economically going concerns only through the assistance of tariff protection.

It is also no good denying that the vast association upon which we propose to embark will raise new problems, economic problems of kinds with which we have not yet dealt. It is also no good denying that the European end, at least, of this proposed new trade association, the Common Market, ultimately will find itself facing poignant new political problems, too. For in Europe this union for trade will reach more and more toward political union as well. In the end will come some undeniable loss or dilution of individual national sovereignty there.

Now, in all the circumstances, it is conceivable that President Kennedy could simply bulldoze his bill through Congress, given the power and prestige of his forces. He could not wisely do this, however. For this is a historic and capital matter entitled to the most earnest and searching scrutiny by Congress and by every responsible adult in this country.

This correspondent, for one, does not hesitate to say that he is for the plan. All his life he has believed that freer world trade would cure most of the world's troubles. Moreover the enormous Western trade grouping in prospect here would make the free world so strong as to make a farce of Khrushchev's threat to "bury" that world by his own slave economy.

But let the protectionists be heard to the end—again, heard in full respect and understanding. For this great national decision will be no good and will not endure unless it has been reached at last in a true, and an informed national consent.

## CASTRO AND CASTROISM

Mr. McGEE. Mr. President, there appears in the Washington Post of today an article in which Walter Lippmann takes his usual objective view of a very controversial and troublesome question now in our midst; namely, that of Castro and Castroism. In the article Mr. Lippmann utters a word of caution to those who would act impetuously, particularly as they react to the attitude of some of our neighbors to the south on the Castro question. It is Mr. Lippmann's view that we should be a little more tolerant and a little more understanding of the caution exhibited by some of our friends to the south of us. I believe that the entire article warrants reprinting in the CONGRESSIONAL RECORD, and I ask unanimous consent that that be done.

There being on objection, the article was ordered to be printed in the RECORD, as follows:

CASTRO AND CASTROISM

(By Walter Lippmann)

The Castro problem is how to deal with a hostile regime without using military force to overthrow it. The Foreign Ministers at Punta del Este have been seeking the beginning of a solution for that problem. Castro has no avowed and quite certainly no genuine sympathizers and supporters among the Governments of the American Republics. But there has been an important division of view as to what it is wise and expedient to do about him.

The division, as we have learned, is between the Republics which lie on the shores of the Caribbean facing Cuba and, with the rather special exception of Mexico, the big countries of South America which are a long way by sea or land from the troubled Caribbean.

I would venture a guess that this geography explains the theoretical differences between the so-called soft and hard positions at the Conference. The Caribbean countries which have taken the hard line, are physically within reach of Cuba. The distances by sea and air are fairly short, and it is rather easy for Castro's revolutionists to infiltrate countries around the Caribbean, to do gun running to local rebel bands among them.

But the big South American countries, which are separated from Cuba in the Caribbean by the Andes Mountains, the jungles and the great hump of Brazil, are not directly threatened by armed intervention. For them the danger of Castro comes primarily from his legend as the Robin Hood who has robbed the rich to help the poor.

Castro does send propaganda and agitators into southern South America. He uses diplomatic facilities if he has diplomatic relations and if not, borrows the facilities of European and Asian nations which are sympathetic with him. But all this activity is of little consequence as compared with the legend of Castroism, the legend that Castro is the friend of the poor.

The "soft" group of governments have acted as they have acted not because they want to help Castro, and not because they are afraid to anger him, but because they know that legends are not destroyed by strong adjectives. The legend would not be dissolved by breaking diplomatic relations and driving Castro entirely into the underground. The legend would not be destroyed by economic embargoes especially since Cuba has no important trade with Latin America.

From our point of view it would have been a calamity if we had forced the issue to a point where with the backing of the weakest part of Latin America we overrode the views of the strongest part. It would have been a calamity to win such a victory because it would have split the inter-American system, with twice as many Latin Americans opposed to us as were with us.

What we really needed, and perhaps have gotten, is that a preponderant majority of our American neighbors state clearly that Castro and Castroism are hostile to the inter-American system. When that is achieved, the practical question of what to do about Castro is not a matter of words or of sanctions. It is a matter of coordinated and cooperative counterespionage in this hemisphere. That must be largely a secret operation in order to identify and frustrate subversive agents. It cannot be done with a brass band and a television camera but only by close working arrangements among the Governments.

Effective counterespionage can deal with Castro's interventions in this hemisphere. It will not and cannot deal with his legend, with Castroism. Counterespionage will not save the corrupt dictatorships that still remain. It will not save the incompetent democracies. And while there must be counterespionage to make sure Castro minds his own business in Cuba, it is no substitute for doing what the alliance for progress has promised to do.

## DIRECTOR OF CENTRAL INTELLIGENCE

The Senate resumed the consideration of the nomination of John A. McCone, of California, to be Director of Central Intelligence.

Mr. MANSFIELD. Mr. President, I have been listening with much interest to the debate on the question of confirmation of the nomination of John A. McCone to be Director of Central Intelligence.

I realize that this position is a highly sensitive and most difficult one. I do not know Mr. McCone intimately but I do know him to a degree; and I have observed his service as an Under Secretary for the Air Force, in a Democratic administration; as Chairman of the Joint Commission on Atomic Energy, under a Republican administration; and as the appointee under the Democratic administration of President Kennedy to be head of the Central Intelligence Agency—the nomination which the Senate is now called upon to consider, and about which it must reach a decision.

Mr. McCone has proved to be a most efficient, effective, and patriotic servant of this Government. He has served in positions of great trust and responsibility, and he has executed his duties faithfully and well.

There is a question of conflict of interest. It is a most difficult and vexatious question. Under the preceding administration—a Republican administration—I felt at times that something should be done to correct the methods by which we judged men, and which on occasion kept good men out of government, because of their business interests.

It seems to me that there could be found some way whereby a nominee to a high post in our Government could be accorded a greater degree of respect, and whereby he would not be considered to be lacking in integrity because he happened to be wealthy. Nevertheless, the spirit of the conflict-of-interest laws should be maintained, in order that the interests of the public, the Government, and indeed the various nominees to public office may be protected. As I say, the question is a difficult one. It has plagued both Democratic administrations and Republican administrations.

Mr. President, now that I have expressed my feeling on this question, I hope that at an appropriate time the appropriate committees will look into the question of appropriate conflict-of-interest law revision, and will ascertain whether they can clarify the matter and can arrive at better procedures.

I recall the very effective job Mr. McCone performed as Under Secretary of the Air Force. I know how, in the Atomic Energy Commission, he brought a good degree of order out of a difficult situation, and in so doing—at least, such is my understanding—earned the confidence of all members of the Joint Committee on Atomic Energy; and I am sure he holds that confidence to this day.

The charge has been made that he has not had much acquaintance with intelligence activities. Maybe not. I do not know. But certainly, as an Under Secretary of the Air Force, as Chairman of the Commission on Atomic Energy, he must have had some contact with activities of this kind, and certainly he must have gained considerable experience in intelligence matters related to the security of the United States.

Mr. President, I intend to vote for John McCone, because of the personal faith and confidence I have in him, and because he is the President's nominee; and I think that, under the circumstances, it would be fitting if a substantial majority of this body gave a vote of confidence to this nominee. I am sure the President and the Congress will not be disappointed in his directorship of the Central Intelligence Agency.

I intend to vote for Mr. McCone tomorrow.

Mr. DIRKSEN. Mr. President, will the majority leader yield?

Mr. MANSFIELD. I yield.

Mr. DIRKSEN. I am glad the distinguished majority leader alluded to the necessity for action in this field. Last year the President sent a message to the Congress on the matter of conflict of interest. A bill was submitted by the Attorney General. Some hearings have been held. There are items to be considered in that bill, but it is highly necessary, because the statutes with which we deal now, and that come into play with respect to many nominees, go back as far as the year 1873.

I concur in the majority leader's views in that respect, and I hope the Judiciary Committee, to which those matters have been referred, can, before too long, finish its deliberations and bring these bills to the Senate Calendar.

## LEGISLATIVE PROGRAM

Mr. DIRKSEN. Mr. President, I should like to ask the majority leader about the schedule for the remaining days of the week, and perhaps the early days of next week.

Mr. MANSFIELD. Mr. President, in response to the question raised by the distinguished minority leader, it is the intention to bring up tomorrow, after conclusion of the vote on the nomination of Mr. McCone, which will take place at 2 o'clock, three treaties which are on the Executive Calendar—Executive G, the convention between the United States of America and Canada; Executive M, the international convention for the Northwest Atlantic fisheries; and Executive N, a protocol dated at Montreal June 21, 1961, relating to an amendment to the Convention on International Civil Aviation.

To the best of my knowledge, these treaties were reported out of the Committee on Foreign Relations unanimously, and I do not know of any opposition to them.

Then it is anticipated that the Senate will go over from tomorrow until Friday, and it is hoped at that time we can take up the bill for higher education, Calendar No. 1053, S. 1241.

It is hoped that following that, on Monday or as soon thereafter as is possible, the money resolutions will be taken up, under the various committees, subcommittees, special committees, and so forth, live and function.

It is anticipated that shortly thereafter consideration will be given to Calendar No. 891, S. 2520, a bill to amend the Welfare and Pension Plans and Disclosure Act with respect to the method of enforcement and to provide certain additional sanctions, and for other purposes.

That ought to bring us pretty close to, if not beyond, the period set aside for the commemoration of Lincoln's birthday, which, to repeat, will include February 9, 10, 11, 12, and 13, inclusive, days on which there will be no votes, and perhaps February 8 and February 14. However, so far as the 8th and 14th are concerned, no definite commitments have been made. None will be made. It will depend on circumstances on those days as to whether or not there will be a vote.

Mr. DIRKSEN. I thank the majority leader. That gives us a chance to set personal schedules actually some time beyond that point.

## LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate return to legislative session.

The motion was agreed to; and the Senate resumed the consideration of legislative business.

## CONVEYANCE OF CERTAIN REAL PROPERTY TO THE STATE OF WYOMING

The PRESIDING OFFICER (Mr. HICKEY in the chair). The Chair lays before the Senate the unfinished business.

The Senate resumed the consideration of the bill (H.R. 3879) to authorize and direct the Secretary of Agriculture to convey to the State of Wyoming for agricultural purposes certain real property in Sweetwater County, Wyo.

## EXTENSION OF COMPLETION TIME FOR FREE BRIDGE BETWEEN UNITED STATES AND CANADA

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1133, Senate bill 512, and that it be made the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 512) to extend the time for completion of the free highway bridge between Quebec, Maine, and Campobello Island, New Brunswick, Canada.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to; and the Senate proceeded to consider the bill.

## EXECUTIVE SESSION

The Senate resumed the consideration of executive business.

## DIRECTOR OF CENTRAL INTELLIGENCE

The Senate resumed the consideration of the nomination of John A. McCone, of California, to be Director of Central Intelligence.

Mr. CASE of South Dakota. Mr. President, I have been reviewing the testimony which was taken by the Committee on Armed Services in the hearings on the nomination of Mr. McCone to be Director of Central Intelligence. In reviewing that testimony, and in looking at the statement of holdings which he filed with the committee in response to my request, a question occurred to me which I think should be raised and which should be brought to the attention of the Senate.

In view of the fact that the voting will take place tomorrow at 2, I regret that I did not look up this point earlier, because, I must confess, I do not have as much information as I should like to have at this time.

During the testimony Mr. McCone gave, it became apparent that the majority of his business interests have to do with the transporting of oil and the transporting of other bulk commerce in world sealanes for one purpose or another.

The question occurred to me this afternoon, as I was looking over the testimony, as to whether or not that established a tax-free status for the income from these corporations and the shipping operations which are his primary business activity.

The Internal Revenue Code, section 883, under the title "Exclusions From Gross Income," provides:

The following items shall not be included in gross income of a foreign corporation, and shall be exempt from taxation under this subtitle:

(1) SHIPS UNDER FOREIGN FLAG

Earnings derived from the operation of a ship or ships documented under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States.

During the past hour or so I asked my administrative assistant to consult as many tax authorities as he could. It is his tentative opinion that the operation of that section of the statute would exclude from liability for taxation under the income tax laws of this country ships which are under a foreign flag if the flag of that country grants an equivalent exemption to citizens of the United States.

I have not had time to determine whether that would be applicable to ships under the Norwegian flag or to ships under the Panamanian flag, but this becomes a question of considerable importance because of the testimony as to the chartering of ships which are operated by companies in which Mr. McCone is interested.

At page 66 of the printed hearings I asked Mr. McCone the following:

You have testified that you were the sole owner of Joshua Hendy in the operations of Trans-World Carriers, of which Joshua Hendy apparently owns one-fourth, and Global Bulk one-half. Would you say you had no indirect interest in the operation of Trans-World Carriers?

Mr. McCone replied:

No; I have a direct interest in Trans-World Carriers, no question about that. Because, as a matter of record, and this is a change from the situation that existed in 1958, I have personally acquired and own now the great majority of the stock in San Marino Corp., and, therefore, through the sole ownership of Joshua Hendy Corp. and the ownership of 85 percent of San Marino Corp., I own practically half of Trans-World Carriers at this point.

That testimony which he gave in answer to my question is at variance with or should be regarded as a modification of his earlier statement, when he was questioned by the Senator from Massachusetts [Mr. SALTONSTALL].

The Senator from Massachusetts [Mr. SALTONSTALL] referred to the investigation of a subcommittee in May 1950, and the interrogation at that time, when Mr. McCone was appointed to be the Chairman of the Atomic Energy Commission. The Senator from Massachusetts asked him:

Have any of the facts which you gave out in your memorandums, in your letters in 1950 and in 1958 to the committees, changed between 1958 and the present time?

Mr. McCone answered:

No. There has been no change.

However, when I interrogated Mr. McCone with respect to the matter of the ownership of Trans-World Carriers, he said:

No; I have a direct interest in Trans-World Carriers, no question about that. Because, as a matter of record, and this is a change from the situation that existed in 1958.

I emphasize that by rereading it, because I think Mr. McCone sought to correct his earlier statement when this was called to his attention, but it also has significance because in a subsequent statement he said he owned the great majority of the stock in San Marino Corp. The San Marino Corp. was referred to earlier in the testimony as a Panamanian corporation.

Subsequently in the testimony I asked Mr. McCone:

Do you know of any working arrangements or partnerships between the Joshua Hendy Steamship Line or its affiliate, Panama Pacific Tankers, and affiliates or subsidiaries of States Marine?

Mr. McCone replied:

Yes. There are joint arrangements—whether they are with States Marine or whether they are with Global Bulk Carriers, I could not say, but it is a little hard to differentiate between the two or three corporate structures on States Marine side.

I then asked:

Do you know whether or not there is a working agreement between States Marine and Global Bulk and the San Marino Co. for the chartering of certain ships through Naviors, a subsidiary of United States Steel?

Mr. McCone replied:

Yes, I believe there is a working relationship; the relationship between Trans-World Carriers and Naviors and Trans-World Carriers is, in turned, owned by the people you have indicated.

As I read from the testimony earlier, Mr. McCone owns practically 50 percent, through his other ownership, of Trans-World.

The following colloquy then occurred:

Senator CASE. You have a partnership with States Marine directly or through a subsidiary in the operation of any Norwegian-flag tankers built in Japan for Trans-World?

Mr. MCCONE. Yes, we do that. We have a tanker that we own jointly that was built in Japan and registered under a Norwegian flag, and we have it under charter from a Norwegian corporation.

Senator CASE. Do you recall the name of that ship?

Mr. MCCONE. I was trying to think of it. No, I do not recall it, Senator.

Senator CASE. Is that vessel engaged in transporting oil?

Mr. MCCONE. Transporting oil; yes, sir.

Senator CASE. For Standard Oil of California?

Mr. MCCONE. For Standard Oil of California; yes, sir.

Senator CASE. Why is it necessary to have complicated arrangements where you build vessels in Germany or Japan, and then leased to Norwegian operators to fly under Panamanian or Norwegian flags rather than U.S. flags?

Mr. MCCONE. The vessels are owned by Norwegian companies and they are operated under Norwegian flags, and that is the only way that they could be competitive because of the high costs of American-flag operations.

Our American-flag operations are restricted to the protected areas of trade such as the coastwise and intercoastal trade.

Senator CASE. Do you know where the principal oil reserves of Standard Oil of California are?

Mr. MCCONE. In a general way, yes, I do, Senator. I know they have extensive reserves in Arabia and in the offshore island in the Persian Gulf of Bahrein, and also extensive reserves in Sumatra, and in Venezuela.

Mr. President, all this becomes significant as one goes back through the record and notes that the steamship operating companies affiliated either with Joshua Hendy, of which Mr. McCone testified he owned 100 percent, or with other companies in which Mr. McCone owns a majority interest, either directly or through a subsidiary company, are largely Panamanian companies.

Panama Pacific Tankers, in which Mr. McCone owns a substantial interest, is a Panamanian corporation. Its bulk cargoes in world commerce are principally iron, coal, and some oil.

San Marino, in which Mr. McCone owns 85-percent interest, is a Panamanian corporation.

Redwood Corp., of which he is a substantial owner, is a Panamanian corporation. Its business is the worldwide movement of petroleum.

Trans-World, of which Mr. McCone indicated he had 50-percent ownership, is a Panamanian corporation.

These facts lead one to wonder if a part of the problem of the high cost of American-flag operations does not relate to the income tax liability of ships operated under the American flag as well as to other high costs which might be suggested in the statement:

The vessels are owned by Norwegian companies and they are operated under Norwegian flags, and that is the only way that they could be competitive because of the high costs of American-flag operations.

I connot say, because time has not been available to run it down through independent sources, and the hearings before the committee on the nomination of Mr. McCone have been concluded.

During the time we were taking testimony from Mr. McCone I asked him at some length about the record which was established by the House Committee on Merchant Marine and Fisheries under the chairmanship of Schuyler Bland, of Virginia, when the committee interrogated him and conducted an extensive investigation into the profits which were made by Mr. McCone's company as a shipbuilding corporation during the early stages of World War II.

The testimony is set forth in some detail in the hearings on Mr. McCone's nomination, as well as in the original hearings conducted by Mr. Bland. The testimony indicates that the California Ship Building Corp., which was organized by Mr. McCone and some others with about $100,000 capital, in a year declared a dividend of a million dollars, half of which was paid in cash

and the other half of which was by subscription to capital, so the capital of the corporation was increasing to $600,000.

The testimony of the Comptroller General was that profits grossing about $44 million were made in a relatively short time by the California Ship Building Corp., using facilities which had cost the Government $25 million.

Mr. McCone is entitled to have it said that he contended at the time, and he contends now, that in addition to the $100,000 of actual cash which he and his associates put into the California Ship Building Corp., they subordinated loans of $2 or $3 million to the corporation. But in any event, a very substantial profit, running into many millions of dollars, was made.

The thing which originally intrigued my interest on this subject was that by some action of the U.S. Maritime Commission, back in about 1946, the operation of the California Ship Building Corp. in this connection were exempted from the operation of the renegotiation statute. The renegotiation statute stemmed from an amendment which I offered to the sixth supplemental defense bill, which was passed in the House of Representatives in April of 1942. At that time it was intended that no exemption should be made from the operations of the renegotiation statute except by a decision of the renegotiation officials, that is, the Price Adjustment Board or other agencies which were its successors. I talked with the counsel of the Renegotiation Board only a few days ago in connection with this subject, and he said that it was clear today that no agency of the Government, aside from the Renegotiation Board, had the discretion to exempt a corporation from operation of the renegotiation statute.

But apparently back in 1946 the Maritime Commission presumed to exempt the operations of the California Shipbuilding Corp. from renegotiation. Whether because of that action or not I do not know, but they made very large profits—profits so large, in fact, that Ralph Casey, who was a representative of the General Accounting Office, testified before the Committee on Merchant Marine and Fisheries of the House of Representatives:

> I daresay that at no time in the history of American business, whether in wartime or in peacetime, have so few men made so much money with so little risk, and all at the expense of the taxpayers not only of this generation but of generations to come.

During World War II it became apparent that Mr. McCone and his associates discovered that one way to make a good deal of money, and make it in a hurry, was to be exempted from the normal operations of renegotiation, or to avoid recoveries by the Treasury Department, the Bureau of Internal Revenue, or the Price Adjustment Board. The question that inevitably comes to my mind in connection with a review of the testimony of these various world shipping operations is that company after company is organized under the laws of Panama, and ships travel either under the Panamanian flag or under the Norwegian flag, if it is a ship chartered by Norway. Mr. McCone has said:

> This is the only way they could be competitive because of the high cost of American-flag operations.

I hope that Mr. McCone will learn of my statements on the floor of the Senate at this time. Because of the time limitation and because of the time fixed for the vote tomorrow, this is the only time at which they could be made. I am not saying that the bulk of the admittedly large wealth which he has accumulated is due to the fact that operating ships under Panamanian corporations or under the Norwegian flag has exempted all of the income from liability for taxes of the United States. But I should like to know whether or not that is the case, for the citation from the Internal Revenue Code which I read earlier clearly exempts from taxation under the head "Exclusion From Gross Income: Ships Under a Foreign Flag." I think that point has a bearing upon the issue, and it is quite apart from what is normally considered conflict of interest.

The conflict of interest statute relates to procurement, and it specifically provides that—

> Whoever, being an officer, agent or member of, or directly or indirectly interested in the pecuniary profits or contracts of any corporation, joint-stock company, or association, or of any firm or partnership, or other business entity, is employed or acts as an officer or agent of the United States for the transaction of business with such entity, shall be fined not more than $2,000 or imprisoned not more than two years, or both.

That is paragraph 434, title 18, United States Code. That provision clearly is restricted to one who "acts as an officer or agent of the United States for the transaction of business with such entity."

I do not suppose that the Central Intelligence Agency will have a great deal of business with these various shipping companies. I do not suggest that the CIA will have a great deal of business with the Standard Oil Co. of California or some of the other firms from whose directorship Mr. McCone has resigned, but in which he still owns substantial interests, in many instances amounting to a million dollars or more. But I do suggest that logical questions in the mind of anyone concerned with the activities of the Central Intelligence Agency are, "Where are a man's interests? What is his background? Is he objective?"

At the outset of my questioning during the hearings, when Mr. McCone was before the Committee on Armed Services, I said to him that I respected his ability. I coveted his ability for the service of the United States, but I hoped that we might be able to determine and demonstrate his objectivity.

I think he was frank with the committee. I did not detect any evasion on any question that was asked. A man is entitled to the use of notes to refresh his memory of incidents that occurred 15 or 16 years ago. But admitting all that, when we remember that at the outset of our hearing the chairman of the Senate Committee on Armed Services said that he regarded the position of directorship of the Central Intelligence Agency as second in importance only to that of the presidency of the United States, it becomes important that we feel that the man who is in that position has a complete objectivity, so that he will feel that what is good for the United States is good for the interests he represents.

I need not refer to the fact that a gentleman who was Secretary of Defense a few years ago received some criticism and some opprobrium because he happened to remark that he believed that what was good for General Motors was good for the United States. Of course, the unfortunate thing about his statement was that he did not put it the other way. I think he meant that what is good for America is good for General Motors.

I would like to have complete satisfaction in my own mind that Mr. McCone would not merely say but would feel that what is good for the United States is good for Trans-World Carriers, for San Marino Co., a Panamanian corporation, for Redwood Corp., a Panamanian corporation, for Panama-Pacific Tankers, which is a Panamanian corporation, and for all the shipping companies which are engaged in worldwide commerce.

I have no doubt that if he were asked that question he would say that he really believes that what is good for the United States is good for these companies.

However, the question which every Senator must decide for himself is whether, with this background and with this far-flung empire of many shipping companies, which went to foreign countries for incorporation, the many interests which go to other countries to get ships which can fly the flags of other countries because competitive costs in the United States are too high, and possibly because at least some of the income from that shipping interest will be exempt from taxation under the laws of the United States; and after hearing and reviewing the testimony, one can escape some doubt as to whether this worldwide interest may not at some time, as we look over the whole spectrum of world affairs, influence the emphasis of the Director of Central Intelligence Agency either in the gathering of intelligence or in the recommendation for or direction of covert activities.

I have not reached a final decision as to how I shall vote tomorrow afternoon on the nomination. I voted to report the nomination from the committee. At that time I did refer to these questions which I had asked during the hearings. I said I had asked them hoping that it would be helpful in making Mr. McCone sensitive to this area of possible conflict of interest, and hoping that by asking these questions we could perhaps demonstrate his objectivity.

At the conclusion of my questioning I asked him two questions. I asked him whether he would submit a list of his stockownership, as he did in connection with the case of his confirmation for

membership on the Atomic Energy Commission. I asked him also whether he would agree to set up an irrevocable trust, as he had done before his nomination for his position on the Atomic Energy Commission was confirmed.

Earlier during the questioning, in response to some questions submitted by the Senator from Massachusetts [Mr. SALTONSTALL], Mr. McCone said he would have no objection to setting up an irrevocable trust if there were some reason to do so. He did not respond directly to the question when I asked it at the conclusion of my examination. He did say that he would submit the list of his holdings. He did submit that list, and I have had an opportunity to examine the list. I am not violating any confidence with respect to the list, because by going to the printed testimony, particularly with respect to the questions which were directly asked him and to which I have already referred, one can see that all I have said about the background and origin of these corporations and of his interest in them is set forth in the hearings. The list that he filed would be merely confirmatory of what he said so far as ownership is concerned and what is in the hearings.

The list was submitted. I personally do not know whether it would do any good if an irrevocable trust were set up. I do not see that that of itself would matter particularly, because I do not anticipate that he, as the Director of CIA, would act as the procuring agent so far as these companies are concerned in any business between them and the United States.

However, it is that background, that interest, that education, that indefinable awareness of interest and knowledge of conditions in Saudi Arabia and the Middle East which raises the possibility that the disturbed conditions in the Middle East or in the Far East might seem to him to be more important than the disturbed conditions in the Gulf of Mexico or the Caribbean. Would he be more interested in maintaining stable order in Kuwait than he would be in resisting infiltration in Cuba? Would he be more interested in stabilizing Vietnam than Venezuela? I confess that I do not know.

I feel that in the Western Hemisphere, the United States has some special responsibilities. The historic position of the Monroe Doctrine has given us all these responsibilities, and we cannot escape them in this generation even if we so desired. The distinguished delegation which is now in Uruguay is seeking to meet some of the responsibilities of the United States in the Western Hemisphere. I do not see any comparable responsibility for us in some other parts of the world that I might name, although I agree we have responsibilities there.

I close these remarks by saying that I covet for the directorship of the Central Intelligence Agency a man who has the organizing ability, who has the knowledge of world affairs, who has the scientific background, and who has the calm approach to matters that Mr. McCone evidently has. I wish I could be sure. I hope something will help me by tomorrow afternoon at 2 o'clock to be sure that this man will have that objectivity in every instance to put the interests of the United States—in emphasis, in direction of activities, and in a collection of intelligence—ahead of any of this far-flung shipping empire which he has established.

Mr. BARTLETT. Mr. President, it is apparent that the Senator from South Dakota is deeply troubled by the matters which he has discussed this afternoon. For my own part, I, at least, admit an equal concern over those matters and others. As the Senator from South Dakota did, I, too, voted in committee to report the nomination of Mr. McCone.

On this day and at this hour I do not know how I shall finally vote at 2 o'clock tomorrow afternoon when the Senate will vote either to confirm or reject the nomination of Mr. McCone as Director of the Central Intelligence Agency.

I had never seen Mr. McCone until he appeared the other day before the Committee on Armed Services. Of course, on the basis of hearing a man speak for an hour or two, and trying to size him up, as it were, one is not in the best of all circumstances to make an objective evaluation. However, I came away from that meeting with the idea that he is a patriotic man and a devoted man and a man of integrity according to the best of his own lights.

However, the question that I put to myself over and over again is this: Is his conditioning, because of all his previous business history, such as to enable him to give, in the overall direction of this most important Federal Agency, the objective look which, as the Senator from South Dakota has stated, is so imperatively needed?

The Director of that Agency certainly cannot place greater emphasis upon one section of the globe than upon another. He must forget all past and previous private connections and look toward the good of the United States as a whole.

Personally, I have no doubt that Mr. McCone would do his honest best to reach that situation. My questions would only revolve around the point as to whether he could be completely objective. I certainly hope so.

I recall that in committee the other day I asked Mr. McCone about the Arabian-American Oil Co., a company formed by several large U.S. oil companies. I reported to Mr. McCone having heard, as so many of us have, that it has been said that this oil combine has in the past interfered in the foreign affairs of some Middle East nations for the benefit of the oil company.

Mr. McCone's reply was:

> No, I would have no comment because I have not personally read or heard of those allegations. In my trips to the Middle East, I have observed that the Aramco people handled their relationships with the Governments of Arabia and Bahrein Island in a very satisfactory way, so reported to me. I don't know of any interference.

My query now would relate to those words used by Mr. McCone, that the Aramco Co. handled their relationships with the Governments of Arabia and Bahrein Island in a very satisfactory way. Satisfactory to whom? Satisfactory in every case to the Government of Arabia from the standpoint of its own national interest, and satisfactory to the governments of other nations with which this oil company might have conducted private negotiations? I do not assert or even allege that the Arabian-American Oil Co. ever did any such thing. But it has been so reported.

Or, to use again by way of quotation the words "very satisfactory way," was it a very satisfactory way for the oil company itself? We are not informed.

Finally, a most important question relating to all this subject, is, was that a very satisfactory way in each instance for the Government of the United States, for the U.S. national interest?

Mr. President, I do not intend further to labor this point or this issue at this late hour. I had not intended to speak further on the subject. However, I decided to do so only during the time when the Senator from South Dakota [Mr. CASE] took the floor to express his doubts, his concern, because my feelings are so close to being identical with his and because I, too, do not know at this time how I shall finally vote.

If it should be, as it may be, as many say it probably will be, that Mr. McCone's nomination will be confirmed, I certainly would want to be in the forefront of those who wish him well in this most significant and critical assignment.

## MILITARY RESEARCH IN ALASKA

Mr. BARTLETT. Mr. President, Alaska today is a growing center of research activity. The three military services and many other governmental and private institutions are conducting research and development programs which strengthen the Nation not only in the present but for the future.

U.S. Army, Alaska—the only Army oversea command operating entirely in a northern environment—is the spearhead for the Army's growing research program.

The Army's northern operations concept calls for employment of fully mobile, extremely powerful, streamlined task forces of battalion and brigade size. In the course of training and experimentation to improve its capabilities to form, fight, and support such forces, USARAL generates requirements for new materiel and techniques which are a primary source of guidance for Army cold weather research and development programs. The capabilities which are needed today for northern operations are applicable, in large part, to operations in such other undeveloped regions as the jungles of southeast Asia and might be required for the major battlegrounds of Europe and Asia. Thus the cold weather operations development program is, in fact, a leading edge of the Army's advance into the future.

Mobility is a first order problem of the Army today and in the north—whether North America or northern Siberia—it is a particularly urgent problem. USARAL requirements for very high mobility vehicles have led to

investigation of a wide variety of commercial configurations which promise a revolutionary increase in ground mobility over snow, muskeg, and swamp. In the future, ground effect machines and such other radical concepts as the flexwing airplane may find their first practical applications in the broad reaches of the north, where their potential for improvement of battlefield mobility can be brought quickly into practical use.

Since railroads are few in the north—as in many other parts of the world—USARAL has also formulated a concept for a tracked overland train with which a single truck crew can transport 50 tons or more of supplies across country, through swamp and snow. This vehicle will reduce greatly the requirements for roadbuilding by Army engineers and for vehicle operating personnel.

The deep zones of permanently frozen soil which underlie hundreds of thousands of square miles of the Arctic can be tunneled like coalfields. USARAL has developed a concept for constructing storage and other administrative facilities under the surface of the ground within the permafrost. Infra-permafrost construction will be fast and cheap; it will afford good camouflage; and it will provide excellent protection from nuclear weapons and other fire effects on the future battlefield. There is a possibility that this development project will lead to methods which will allow a combat unit to dig itself under the surface of the ground in all regions of the world rapidly; obviously, this would be of the greatest value in nuclear combat.

These concepts are typical of many others in the fields of firepower, communications, combat mobility and support which are directed toward the same objective—more effective and at the same time more economical combat forces.

To meet these requirements, the Army is placing an increasing concentration of research and development effort in Alaska. During the last summer, engineering test teams were transferred from Fort Churchill, Canada, to Fort Wainwright, adjacent to Fairbanks. At Fort Wainwright, Army research activities will have available for the first time, in U.S. territory, a virtually unlimited environmental test area with long, dependable seasons of cold weather, good administrative facilities, and the opportunity for close coordination with combat forces. The Army technical services at Fort Wainwright will conduct engineering tests of new equipment and carry out basic and applied research into northern operations problems. The program for the current winter test season includes a wide range of Engineer, Signal, Ordance, Quartermaster, Chemical, and Medical Corps research projects and equipment tests. The Transportation Corps has also established at Wainwright an activity which is performing trafficability experiments and investigations into vehicle performance problems.

The Corps of Engineers has conducted field study programs in Alaska for many years and these programs are now being increased. In the next few years Army research teams will conduct basic research throughout the State, to increase basic knowledge and to develop applications of basic scientific advances to the military art. Many of these applications will be equally important for nonmilitary activities. The use of permafrost excavations for storage of supplies is one example of the kind of research problem which is of interest to civilian as well as military activities.

An important potential for the future is the opportunity which Alaska offers for establishment of long-distance missile test ranges wholly over U.S.-owned territory.

At Fort Greely, a hundred miles southeast of Fairbanks and Fort Wainwright, the Arctic Test Board and the Chemical Corps' Arctic Test Team test newly developed equipment from the viewpoint of using troops in cold weather. These tests are important not only for operations in Arctic and sub-Arctic areas but for operations of the Army in Temperate Zone winters. It gets as cold in the Temperate Zone as it does in the sub-Arctic—Temperate Zone cold simply does not last for quite so much of the year. For the soldier in the field, 40 below zero is just as serious a problem in Eastern Europe as in Alaska or Siberia.

The research and engineering agencies at Fort Wainwright and the user test agencies at Fort Greely coordinate their efforts closely, and in the future an increasing effort will be made to conduct the engineering tests of the research agencies and the user tests of USCONARC simultaneously. This will save money and effort and, in many cases, may help reduce development lead time.

One of the important advantages resulting from the conduct of military research work in Alaska is the opportunity afforded research and testing personnel to work directly with operating forces. For example, during U.S. Army Alaska's winter maneuver in February 1962, a large-scale test of the new quick-serve ration will be conducted under the severest possible weather conditions by troops actually engaged in combat training. This is the only kind of test that gives the answer to the final question on any military item—Will it do the job in combat?

The Air Force and Navy are also active in Alaska research activities. The Navy operates the northernmost research facility of the United States, which is not actually in Alaska but in the Arctic Ocean off the north coast of Alaska. This is the ice island Arliss II, which was discovered by Max Brewer, director of the Navy's Arctic Research Laboratory, in May 1961, and occupied by a scientific party in the summer of 1961. Arliss II, which is about 1½ by 3½ miles in size and 80 feet thick, is relatively permanent compared with floe ice and constitutes an excellent base for conducting oceanographic and other studies.

The Arctic Research Laboratory at Barrow—the farthest northern portion of the North American Continent—is operated for the Office of Naval Research by the University of Alaska. The largest effort of the Laboratory is in oceanographic studies. Specific areas of investigation include underwater acoustics, marine biology, geology of ice islands, sea ice micrometeorology, sea ice morphology, meteorological observations, and strain measurements.

In the Fairbanks area, the Air Force since 1947 has operated the Arctic Aeromedical Laboratory. This Laboratory is the aeromedical research facility of the Alaskan Air Command and as such is charged with the solution of Arctic problems of that command. At the same time, and perhaps of more general importance, it is the only human factors laboratory of the Department of Defense located in the Arctic and concerned exclusively with problems of far northern areas. The Laboratory conducts an in-house program of research on Arctic human factors problems. The in-house program is supplemented by contract work performed by various institutions, particularly universities, throughout the country. The Laboratory establishes Air Force requirements for clothing, individual equipment, operating procedures, and training problems for use in the Arctic. It evaluates Air Force clothing and equipment under Arctic conditions and it provides laboratory facilities, logistic support, and technical assistance to visiting research teams and field parties.

The military research and development programs are only part of the total scientific effort in Alaska. The annual proceedings of the Alaska Science Conference have covered in the past 10 years such a wide range of topics as agriculture, botany, and forestry; medicine, physiology, and public health; engineering, industrial science, and aviation; geology and geography; sociology, economics, and education; anthropology; geophysics, meteorology, and oceanography; wildlife and zoology.

The University of Alaska, in addition to operating the Navy's Arctic Research Laboratory at Barrow, has a strong program of research, particularly in the earth sciences—geology, geodesy, and similar disciplines. The Bureau of Public Health and other Federal and State agencies have made and are making major contributions to the understanding of cold weather physiology.

The importance of Alaska as a center of military and civilian scientific effort is great today and is growing steadily and rapidly. In any foreseeable future war, the north will be strategically critical, for self-evident geopolitical reasons. Of even greater ultimate importance is the fact that, as world population increases, the human need to use the lands of the north will increase. Current research and development efforts in Alaska are preparing the way for effective future peaceful use of the vast spaces and the unmeasured natural resources of the northern regions of North America and Eurasia.

## DIRECTOR OF CENTRAL INTELLIGENCE

The Senate resumed the consideration of the nomination of John A. McCone, of

California, to be Director of Central Intelligence.

Mr. CLARK. Mr. President, earlier this afternoon I spoke at some length with respect to the pending nomination and read into the RECORD a legal opinion furnished me by legislative counsel and also some quotations from the latest opinion of the Supreme Court on the conflict-of-interest question, namely, the Mississippi Valley case, involving the Dixon-Yates question, a case decided in January 1961. I was necessarily called from the floor after I completed my remarks, and the distinguished senior Senator from Missouri [Mr. SYMINGTON], made some comments in reply to my talk, to which I do not wish to advert at this time.

He did, however, place in the RECORD a memorandum on conflicts of interest, dated January 15, 1962, signed by Lawrence E. Houston, General Counsel of the Central Intelligence Agency, and indicated that in his view this memorandum, which ends with the conclusion that no question of conflict of interest arises out of the financial holdings of Mr. McCone, was persuasive to him.

With all deference to the distinguished Senator from Missouri, this memorandum is not persuasive with me, and I urge any Senators who may think it a rod on which they can lean in dealing with the conflict-of-interest question to take a good, hard look at the opinion of the legislative counsel and at the Supreme Court's decision in the Mississippi Valley case before they make up their minds finally. I note that the Court's opinion was not even discussed in the CIA memorandum.

In my opinion—and it is only one lawyer's opinion—the memorandum of the General Counsel of the CIA is very superficial, indeed, and is not persuasive. It states, in part, that the writer of the opinion knows "of no judicial decision suggesting that the existence of ultimate official responsibility for all of the activities of a department constitutes per se the 'transaction of business' within the meaning of section 434," which is the conflict-of-interest statute.

That sentence is carefully worded, indeed, but I suggest it is disingenuous, and that a reading of the Mississippi Valley case would convince any lawyer and many laymen that very broad and rigorous standards of conflict of interest were laid down by the Supreme Court of the United States in that case. This memorandum concludes that the CIA has no business negotiations or contracts, within the meaning of section 434, with any of the companies on the list of Mr. McCone's holdings. This statement is, of course, a pure conclusion of law and depends on the writer's view of the scope and intent of the statute.

I suggest that when one attempts to make up his mind as to whether a genuine conflict of interest exists with respect to the holdings by Mr. McCone of stock in the Standard Oil Co. of California, a wiser legal guide is the Supreme Court of the United States, rather than the General Counsel of the CIA.

Mr. CASE of South Dakota. Mr. President, will the Senator from Pennsylvania yield?

Mr. CLARK. I am happy to yield to my friend, the Senator from South Dakota.

Mr. CASE of South Dakota. A short time ago I read into the RECORD paragraph 434 of title 18, which is the so-called conflict-of-interest statute. As a layman, I think paragraph 434 deals explicitly with acting as a purchasing officer or procurement agent for the United States. The mere fact of holding a position woud not result in a violation of the statute, unless one while in a position as an agent of the United States entered into a contract for the United States with a company in which he had a pecuniary interest, under the wording of the statute.

Mr. CLARK. I would respectfully disagree with the Senator from South Dakota; and I urge that before 2 o'clock tomorrow he read the Mississippi Valley case. The conflict question in that case arose from the employment of a Mr. Wenzell as a special consultant for the Bureau of the Budget. At the same time Mr. Wenzell was serving as an officer and shareholder of the First Boston Corp. He participated on behalf of the United States in negotiations looking toward the formation of a Government contract in the execution of which First Boston might have been expected to participate. Mr. Wenzell had, and I quote from the U.S. brief in the case, "nothing to do with the negotiation of the formal contract," involving First Boston. Indeed his Government service ended several months before the contract was concluded.

Nevertheless, the Supreme Court of the United States held that, even though Mr. Wenzell did not participate in the negotiation of the actual contract or business transaction in question, his earlier role in events prior to the contract was a conflict under section 434 and voided the entire contract. So I suggest that a consideration of the barebones of the verbiage of section 434 does not tell us the whole story.

If the Senator from South Dakota does not find it convenient to obtain the entire opinion of the Supreme Court of the United States in the Mississippi Valley case, I refer him to the rather generous excerpts from the opinion of Chief Justice Warren in that case which I read into the RECORD earlier today and also placed in the RECORD yesterday at page 973.

Mr. CASE of South Dakota. I shall be glad to examine that. However, it is my recollection that while Mr. Wenzell had an interest in the First Boston Corp., he also had what amounted to a contract to act as an adviser of the United States.

Mr. CLARK. Yes, but Mr. Wenzell's contract of employment with the Government, referred to by the Senator from South Dakota, was over before the contractual relationship between the First Boston Corp., and the United States of America was established. It is the latter contract which was held void by the Supreme Court because of Wenzell's earlier position.

Mr. CASE of South Dakota. There could have been a second violation; but I would not rule out the possibility that if Mr. Wenzel was employed by the United States to act as an adviser, if he advised the United States while he served in that capacity and while he also was in a position to serve his own interest, that situation might constitute a conflict of interest.

Mr. CLARK. I urge the Senator from South Dakota to read the opinion in that case. I think that with his perceptive mind he will note its implications, and I believe it will be much more persuasive than what I have stated this afternoon.

Mr. CASE of South Dakota. That may be. I merely think that regardless of whether there is or is not a legal or a statutory conflict of interest, if a man of his general education and interests and with the stake he had in such things had a blindspot or a prejudice which would lead him to act in a certain way which would be more beneficial to the concerns in which he had a financial interest than to the interests of the United States. such a circumstance might actually involve a conflict of interest.

Mr. CLARK. Of course that concerns me, too. Although I am strongly of the view that Mr. McCone is a completely honest man, yet the conflict of interest problem worries me substantially.

What worries me even more is that in my opinion this particular position calls for a judicious and an objective temperament; and I believe that Mr. McCone in his activities and in his Government service thus far has shown himself to be an active protagonist of his private views. So I have grave reservations in regard to his qualifications for this particular office.

Mr. CASE of South Dakota. Mr. President, the Senator from Pennsylvania has used the word "objective." I think Mr. McCone will be both objective and judicious in his attitude.

Of course the Scriptures say that where a man's treasure is, there is his heart, also.

Mr. CLARK. The Biblical quotation which was used by the Supreme Court of the United States came from the Gospel according to St. Matthew—namely, "No man can serve two masters." That is in the Supreme Court's opinion.

## ADJOURNMENT

Mr. CLARK. Mr. President, I move that the Senate now stand adjourned until tomorrow, at 12 o'clock noon.

The motion was agreed to; and (at 6 o'clock and 6 minutes p.m.) the Senate adjourned until tomorrow, Wednesday, January 31, 1962, at 12 o'clock meridian.

## NOMINATIONS

Executive nominations received by the Senate, January 30, 1962:

MUNICIPAL COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

Frank Hammett Myers, of the District of Columbia, to be judge of the municipal

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

## EXECUTIVE MESSAGES REFERRED

The PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting several nominations, which were referred to the Committee on the District of Columbia.

(For nominations this day received, see the end of Senate proceedings.)

## NATIONAL MEDIATION BOARD

The legislative clerk read the nomination of Francis A. O'Neill, Jr., to be a member of the National Mediation Board.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

## U.S. ARMY

The legislative clerk proceeded to read sundry nominations in the U.S. Army.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that these nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations will be considered en bloc; and, without objection, they are confirmed.

If there be no reports of committees, the clerk will state the nominations on the Executive Calendar.

## U.S. AIR FORCE

The legislative clerk proceeded to read sundry nominations in the U.S. Air Force.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that these nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations will be considered en bloc; and, without objection, they are confirmed.

## U.S. NAVY

The legislative clerk proceeded to read sundry nominations in the U.S. Navy.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that these nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations will be considered en bloc; and, without objection, they are confirmed.

## U.S. MARINE CORPS

The legislative clerk proceeded to read sundry nominations in the U.S. Marine Corps.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that these nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations will be considered en bloc; and, without objection, they are confirmed.

## ROUTINE NOMINATIONS ON THE SECRETARY'S DESK

### THE ARMY

The legislative clerk proceeded to read sundry routine nominations in the Army.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that these nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations will be considered en bloc: and, without objection, they are confirmed.

Mr. MANSFIELD. Mr. President, I unanimous consent that the President be immediately notified of the confirmation of all these nominations.

The PRESIDING OFFICER. Without objection, the President will be notified forthwith.

## DIRECTOR OF CENTRAL INTELLIGENCE

The Senate resumed consideration of the nomination of John A. McCone, of California, to be Director of Central Intelligence.

Mr. MANSFIELD. Mr. President, it is my understanding that the Senate is now in executive session, and that the pending business is the nomination of John McCone, of California, to be the Director of the Central Intelligence Agency.

The PRESIDING OFFICER. The Senator is correct.

Mr. CLARK. Mr. President, when the nomination of Admiral Strauss to be Secretary of Commerce was before the Senate for confirmation in 1959, I prepared a memorandum for my constituents, in which I stated my reasons for opposing the nomination. In that memorandum I outlined five characteristics which I believe any nominee for high public office should have if the Senate is to confirm his nomination for that office. Those characteristics are, first, integrity; second, stability; third, good judgment; fourth, adequate experience; and, fifth, associations, which of necessity would involve an inquiry as to whether any conflict of interest under the statute was involved.

I should like to discuss the pending nomination in the light of those standards. First, however, let me say that the nomination of Mr. McCone to be Director of Central Intelligence raises no issue between liberals and conservatives. It has nothing whatever to do with parlor pinks or members of the John Birch Society.

Those of us who support the President in practically all of his policies, as I do, and who with some regret differ with him on occasion, must nonetheless assure ourselves, in my view, that every nominee whom he recommends to us does have those characteristics of which I speak. I hope that everyone who calls himself a liberal and everyone who calls himself a conservative will measure up to the same standard with respect to these five characteristics, because in my opinion they have nothing whatever to do with one's political opinions.

I should like to discuss each of the five characteristics in turn. First, I have no question as to the integrity of the nominee. He is a man who has worked his way to the top of the business community, with not only consummate ability but also without any doubt of any kind being thrown on his honesty and integrity.

Second, I raise no question as to the nominee's stability. He has conducted himself under heavy pressure in an admirable manner during the course of both his private and public service.

I do have some question as to the nominee's experience for this job, and that point I shall discuss in a moment.

I have no question as to the nominee's business judgment. Clearly it is good, for he has made a fortune. I have no question as to his judgment when he served, I believe, under the Secretary of the Air Force or when he served as Chairman of the Atomic Energy Commission.

I do have some question as to his good judgment in terms of this particular office to which the President has nominated him. However, I would have to admit that my views in this regard must of necessity be speculative, because we cannot tell until after the event just how the strongly held views of a nominee on certain subjects might well affect his intelligence judgment—not his intelligence, but his judgment in the field of intelligence—and how they might or might not affect the public interest.

I believe that in the area of his associations, namely, the conflict-of-interest statute and its interpretation, there is very serious legal question as to whether it is not necessary for him to dispose of his stock in the Standard Oil Co. of California or, in the alternative, whether in his own interest it would not be wise to do so.

I shall return to that matter a little later in my speech.

First, I wish to discuss the subject of experience. The nominee himself has testified that he had had no experience for this job.

Perhaps this is not particularly important. I certainly had no prior experience before I became city comptroller of Philadelphia, before I became mayor of the city of Philadelphia, or before I became U.S. Senator. I am perhaps arrogant and conceited enough to think that despite that lack of experience I was able adequately to fulfill my duties.

Yet the position which the nominee is to fill upon the nomination of the President is not an elected public office but an appointed one. I believe a very real question arises as to whether it is sound practice to nominate for a position of this sort a man who heretofore has been without experience in the intelligence field.

Certainly this is the first time in the history of the Central Intelligence Agency that this has been done.

Mr. SYMINGTON. Mr. President, will the Senator from Pennsylvania yield?

Mr. CLARK. I would be happy to yield to the distinguished Senator from Missouri, and yield to him continuously. I do have a more or less logical argument I should like to present, but I shall be happy to yield.

Mr. SYMINGTON. I appreciate the courtesy of the Senator from Pennsylvania.

During the hearings when Mr. McCone came before the Committee on Armed Services, Senator SMITH voted that all previous nominees had had experience in the intelligence field. I said that that statement, to the best of my knowledge, was incorrect with respect to General Vandenberg. I was incorrect in that statement; General Vandenberg served 6 months, from January to June, 1946, as the head of intelligence on the General Staff. I am saying this to correct the record. As usual, the able senior Senator from Maine knows her facts.

Mr. CLARK. I appreciate what the Senator from Missouri has said. General Vandenberg was never Director of the Central Intelligence Agency, because that office was not created until 1947; and whatever intelligence duties General Vandenberg performed must, I believe, have been before the present statute.

Mr. SYMINGTON. General Vandenberg was the head of the Central Intelligence Agency, to the best of my memory, after Admiral Souers and Admiral Hillenkoetter. The point I wished to make was that General Vandenberg did have some intelligence experience.

In my opinion, no one could have been Under Secretary of the Air Force, which Mr. McCone was at the request of a Democratic President, without having obtained much experience in the intelligence field. No one could be chairman of the Atomic Energy Commission, perhaps the most sensitive position in the Government from the standpoint of intelligence except the CIA, without acquiring at least some experience in the intelligence field.

The nature of the positions which Mr. McCone has held under three Presidents—because actually he has been running the Central Intelligence Agency now for 2 months—I think justifies my position.

I now find that General Vandenberg was head of Central Intelligence before that agency became a statutory agency. He followed Admiral Souers and preceded Admiral Hillenkoetter.

The Senator from Pennsylvania is correct in saying that the Central Intelligence Agency was not a statutory agency until 1947.

Mr. CLARK. I thank the Senator from Missouri.

I resume my argument with the suggestion that since the Central Intelligence Agency was organized by statute, each of the three men who have been its chief has had substantial experience in the intelligence field before he became Director. The first of those men was Rear Adm. Roscoe Hillenkoetter, who served from May 1, 1947, and was the first statutory Director of the CIA. The second was Lt. Gen. Walter Bedell Smith, who served from October 7, 1950, to February 9, 1953. The third was Mr. Allen Dulles, who served from February 26, 1953, to November 29, 1961.

My position would be that any member of the Armed Forces of the United States of necessity, from the time he has gone through Annapolis or West Point, or whatever preliminary school he attended to qualify him for a commission in the Armed Forces, has an almost daily contact with intelligence, the collection, evaluation, and dissemination of information; and in most cases—and I think this is true of the members of the Armed Forces who served in this capacity as Director of the CIA—has, in one or another of his assignments, been in charge of the intelligence function, with whatever staff or command he might have been serving.

Mr. Dulles, as is well known, served for 2 years as Deputy Director of the Central Intelligence Agency before he became Director; and before that had had a long career in various most important offices affecting our foreign policy, our relationships with other countries, and the whole problem of the intelligence function, which involves, as I say, the collection, evaluation, and dissemination of information.

I do not quarrel much with the views of the Senator from Missouri in this regard. I should merely like to read into the RECORD a question asked at the hearings by the distinguished senior Senator from Maine [Mrs. SMITH], and the nominee's reply, as they appear on page 53:

> Senator SMITH. It is my recollection, Mr. McCone, that all of your predecessors had some prior training or experience in the field of intelligence prior to their appointment as Director of the Central Intelligence Agency. Will you tell the committee what training or experience you had in the field of intelligence prior to your appointment to that position?
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> Mr. MCCONE. None.

The Senator from Missouri [Mr. SYMINGTON] may well be correct in saying that Mr. McCone was unduly modest; that in his capacity as Under Secretary of the Air Force and as Chairman of the Atomic Energy Commission he acquired adequate experience. But apparently the nominee himself thought otherwise.

While I think it unfortunate that for a position which the distinguished senior Senator from Georgia [Mr. RUSSELL] described, perhaps correctly, as second in importance only to that of the President of the United States, the President of the United States has seen fit to nominate an able businessman, who himself says he has no experience in this field, I may also say, along the lines of the speech of the distinguished junior Senator from Minnesota [Mr. MCCARTHY] yesterday that if this were the only matter in which the nominee was deficient—the only one of the five categories to which I referred before—I doubt that I would, on that ground alone, feel compelled to oppose the nomination.

Before I discuss the two areas in which I have serious reservations respecting the nominee—first, the objectivity of his judgment and, therefore, whether his judgment in the intelligence field will be good; and, second, the conflict-of-interest question—I shall digress for a moment to discuss what is the nature of the position to which the nominee has been appointed by the President, subject to confirmation of the nomination by the Senate. If one is to review the statute under which this agency was created, he does not get much guidance as to the actual workings of the job. Yet I think that in an empirical sense we who have been around Washington for awhile could summarize the job by saying that it consists of three parts: First, a substantial job of collecting, evaluating, and disseminating information with respect both to matters of foreign policy and of national security; second, the job of coordinating the collection, evaluation, and dissemination of information of an intelligence nature by others, such as the intelligence systems of the Army, the Navy, and the Air Force—and there are others, which need not be brought out in this debate; third, the operation of covert enterprises, colloquially known around Washington as the "Department of Dirty Tricks."

This is a function which we are told has been engaged in by governments since the beginning of civilization, and perhaps even before then. It is a function which we are told is absolutely necessary to our national security. It is a function in which the ordinary rules of right and wrong, of morality, of fair conduct between men and between nations, go by the board. It is a rather sad function. It is more or less a denial of all of the attributes of man in which we take the greatest pride. It is a function which most of us are most reluctant to see our Government engage in. I think almost every Member of this body would hope that it would not be necessary in the national interest to engage in the work of this "Department of Dirty Tricks." Yet I am not advocating that we no longer conduct such covert operations, whether in connection with the elimination of an unfriendly government in Guatemala—in the hope that our role would not be discovered; or in the conduct of undercover operations in the Middle East, with the assistance of oil companies, in order to try to hold the Middle Eastern oil for the West and to prevent the taking of adverse action by various Arab and Mohammedan governments who occupy territory in that area; or whether it be the overthrow of Mossedegh, in Iran; or the conduct of covert operations in southeast Asia. All of these actions may be necessary in the national interest; I do not say they are not. What I do say is that, first, the President, and, second, the Secretary of State, and, third, at least some Members of Congress—and Congress has the power to declare war—should have knowledge in advance and should be kept currently informed as to what the "Department of Dirty Tricks" has up its sleeve. The last and most notorious incident of that kind was, of course, that in Cuba.

It was said by the nominee and, indeed, by others in the course of the hear-

ings—and, in fact, it has been emphasized—that the Director of the Central Intelligence Agency plays no part in the making of policy. This may well be true with respect to his primary function, which is the collection, evaluation, and dissemination of intelligence; or with respect to his secondary function, which is the coordination of that work with the work of other agencies of the Government and private interests. But I suggest that with respect to covert operations, the Director of Central Intelligence does make policy, and it is a policy which may affect the lives and the wealth of many Americans.

Mr. President, in this connection I should like to quote from page 42 of the hearings before the Armed Services Committee, where the nominee said:

> As I said, from the standpoint of my competence in office, it is my responsibility to report facts, and, furthermore, I think I should avoid, so far as possible, being drawn in on a personal basis into any policy discussions because that, to an extent, may have some effect on what people, the validity that people might attach to the facts.
>
> However, I would expect that because of the various areas of activity that I have had in Government in the past, that maybe my personal opinion may be asked on some subjects. But in my role as Director of Central Intelligence, it would be beyond my competence to deal with policy.

Mr. President, I suggest that high policy was involved in the activities of the Central Intelligence Agency in each of the areas to which I had previously referred; and I am afraid it may be involved in the future. I hope it will not be; I hope the nominee will stick to the letter of what I have just cited as his view of the functions of his office, because if we are going to engage in these covert operations, they should never be started without the approval of the President and the approval of the Secretary of State; and the President and the Secretary of State should be kept advised constantly as to the progress of those operations, so they could call them off or could change direction at any time if it appeared to be in the national interest to do so. I feel very strongly, too, that under our constitutional system—so different from that of parliamentary countries—it is of the greatest importance that these covert operations be revealed on a classified basis in executive session, if necessary, or by private conversations to important Members, on both sides of the aisle, of both the House and the Senate.

So I have some doubts as to whether the nominee has the temperament, the background, and the kind of mind which qualify him not only to conduct these covert operations—which I say have become in the past, but I hope will not continue to be in the future, matters of policy—but also with respect to the daily reporting to the President of his evaluation of the intelligence which has been collected by the Agency and all other agencies over which he either presides or whose activities he coordinates.

This leads me to another subject, which is the future organization of the Central Intelligence Agency. The nominee told the committee that he had in mind a reorganization of the CIA. For that, I commend him. I suspect—although I do not know—that it is badly needed. I would hope very much that covert operations would be separated administratively from the collection and evaluation function. In my judgment, those covert operations should be divorced from the responsibility of the objective, judicially minded individual who should be the head of the CIA.

I would like to see a far tighter rein kept in the future than has been the case in the past with respect to these covert operations.

Perhaps it was quite appropriate for the nominee to be unwilling to reveal to the committee, at least in open session, what his reorganization plans are; but I would hope that when he is confirmed—and I have no doubt he will be confirmed—he will do what he said he was going to do and tell the appropriate Members of the Senate who should know about these things—and they are not all on the Armed Services Committee, by any means—just what he has in mind with respect to that reorganization, and seek, if not their consent, at the very least their advice.

I turn now to the last of my digressions, which is the question of the responsibility for the supervision of the Central Intelligence Agency by the Congress of the United States.

It was said in the hearings that the Armed Services and the Appropriations Committees of the Congress do exercise a certain supervision over the activities of the CIA. I am in no position to say whether that supervision is adequate or not. I merely raise the question as to whether a far deeper probing and a continuous probing into the activities of that Agency is not only a part of the congressional duty, but also in the national interest. It is true that the Armed Services Committee has handled Central Intelligence matters since the act was passed in 1947. I question whether, so far as congressional supervision is concerned, there is not a much stronger case to be made for having the oversea intelligence functions under the Foreign Relations Committee than under the Armed Services Committee.

I am seriously concerned at the growth in our country, during the last year or two, of a certain militaristic attitude toward the conduct of our foreign affairs. I am concerned that we tend to become unduly emotional in our conflict with communism—and a serious conflict it is. I feel we tend to deal with it in terms of a holy war, just as that which took place for 700 years between the Mohammedans and the Christians, or that which racked Europe in the 17th century as a result of the war between Catholics and Protestants.

I fear that we do not look objectively and calmly at negotiations looking toward peace, at the possibility of disarmament, at the possibility of the strengthening of the United Nations in the interest of peace, at the possibility of following out the President's sound premise for total and complete disarmament, under enforcible world law, laid down in his magnificent speech before the United Nations on the 25th of September.

What does all this have to do with the nominee, one may ask? I think it has just this to do with it. As someone said during the course of the hearings, or in one of the speeches—I guess it was the junior Senator from Minnesota—probably with reference to one of the executive agencies which from time to time looks at the CIA, the surveillance and supervision by Congress which has heretofore been given to the conduct of the operations by that Agency has been more in the nature of the polite inquiries of a visiting committee of alumni looking into the English department of the university from which they graduated than the kind of pretty tough supervision which the committees of this body give to a number of the other agencies of our Federal Government.

Again I say, Mr. President, I am in no position to make a categorical statement in this regard. I merely suggest to our colleagues and, through the CONGRESSIONAL RECORD, to the country, that this is a matter deserving of far greater consideration than we are able to give to it in connection with the consideration of this nominee.

I hope very much, once this nomination is out of the way, the appropriate committees of the Congress will not forget this matter, but will undertake, in consultation with the nominee when he becomes the Director of Central Intelligence, to see what can be worked out together to assure adequate supervision of an agency which, in its very nature, is very difficult indeed to supervise without the revelation of important facts and operations, which revelations might well not be in the national interest.

Mr. McCARTHY. Mr. President, will the Senator yield?

Mr. CLARK. I shall be happy to yield. I told the Senator from Louisiana I would like to finish my speech. I yielded to him once. I shall be happy to yield to the Senator, but I shall not be too long.

Mr. McCARTHY. The legislation under which the Central Intelligence Agency was established describes it purely as an executive agency and provides for a report to the National Security Council. There is no provision in the law which requires a report to any committee of Congress, and the report, or what is described as a report, to the Armed Services Committee is incidental and is not a matter of determination for Congress, and not a matter of determination of law itself. It is not necessarily arbitrary, but is a choice which is made by the executive agency itself. It is not under any direction by the Congress. The only legislative control exercised under statute is the incidental one which arises from the fact that every executive agency must come at some time to Congress for appropriations; but in most cases requests for appropriations come before the act, which is couched in very general terms, and after the act the power of the Appropriations Committee to determine action is of very little significance, as the Senator knows.

Mr. CLARK. The Senator is quite correct.

I call to his attention and to the attention of our colleagues subsection (c) of rule XXV of the Standing Rules of the Senate, which deals with the functions of the Committee on Armed Services. One will read through that subsection and look in vain to find a single peg on which to hang one's hat to ascertain that the Armed Services Committee has the slightest jurisdiction over the agency or intelligence generally; whereas, if one turns to subsection (i) of the same rule XXV, he will find that, under the functions of the Committee on Foreign Relations, the very first subsection is: "Relations of the United States with foreign nations generally"—the report upon which relations, indeed, is the principal function of the Central Intelligence Agency.

I would hope that the leadership on both sides of the aisle would give some consideration to whether the jurisdiction of this agency should not be moved under the Foreign Relations Committee.

I would also hope that the Committee on Government Operations would undertake a very careful investigation of the Central Intelligence Agency in the very near future for the purpose of assessing the effectiveness of its operations; the extent to which it should be reorganized, if at all; and to look very carefully into the question as to whether the "Department of Dirty Tricks" or covert operations should be separated from the intelligence governing functions which, without adequate background to make a considered judgment, I am presently of the view should be done.

I return, Mr. President, to the question of whether the nominee meets those last two characteristics to which I referred in the beginning of my remarks. First is the question of good judgment. My view on that is one which cannot possibly be sustained by a factual argument. I only say that in my opinion the Director of the Central Intelligence Agency should be a man of judicial temperament, a man who can weigh facts and law and opinion, correctly evaluate them, and state tersely and clearly the conclusion which results as he looks at different views.

Allen Dulles was a lawyer, but he was a man of great judicial temperament. He was objective. He was dispassionate. Perhaps he was not the world's greatest administrator, and I am sure he would be the first to admit he was not, but he was a man whose calm, cool, and considered judgment was entitled to the greatest of respect.

I raise the question as to whether Mr. McCone—able, intelligent, honest, stable—is a man of judicial temperament. I suspect that he is not. I am not, myself. I am an advocate. I believe in causes. I am convinced that peace and disarmament is the most important issue before the world today. I admit I cannot assess that problem with the calm, dispassionate objectivity which is desirable.

Mr. McCone is said to believe we should immediately resume nuclear testing in the atmosphere. He has believed this for some years. He opposed the moratorium. He feels it deeply in his bones. He has said so vigorously. I honor him for that opinion. As time goes on, it is becoming apparent that perhaps he is right. I do not think he was right in the first instance, but this is a matter of opinion. After all, when one finds one's self in the present situation, with the Russians refusing even to negotiate any further, with the possibility of the national security involved, perhaps he is right now.

My real question is, Will not that strong, honestly held conviction not only about this question alone but also about a score of other matters, inevitably and perhaps subconsciously affect the objectivity and the validity of the evaluation of intelligence he will give to the President of the United States? If there is even a suspicion that this will be the case, should his nomination be confirmed for this position?

I have said to my friend from Missouri [Mr. SYMINGTON] privately, and I say it now publicly, that I should have been glad to support Mr. McCone to be Secretary of Defense or Secretary of the Army or Secretary of the Navy or Secretary of the Air Force, but I have very serious doubts as to whether a man of the temperament of an advocate is the proper kind of man to hold this most important position, in which judicial objectivity is of the highest importance.

Finally, Mr. President, I turn—and somewhat reluctantly—to the question of conflict of interest. I am not one who believes that our present conflict-of-interest laws are either wise or sound. I think they should be drastically revised in the interests of making it easier for able men from the business community and, for that matter, from our great labor unions, to come to Washington, D.C., and to serve the Government without having to be put on the gridiron with respect to theoretical conflict-of-interest considerations. I do say that as long as those laws are on the statute books they should be enforced, and in this instance I have a serious doubt amounting almost to a conviction that the holdings by Mr. McCone of over a million dollars' worth of stock of the Standard Oil Co. of California is both a legal violation of the conflict-of-interest laws but also a very unwise holding for him to continue. I hope very much that within the near future he will divest himself of that stock, not by putting it in an irrevocable trust in which he and his family will continue to have an economic beneficial interest from the holding, but by divesting himself of it by sale. This will be a sacrifice. This will cause him to pay a substantial tax. This will be perhaps unfair. However, if a man wishes to delve into the tortuous politics of the Middle East, where the relationships of the United States with the countries of Saudi Arabia, Jordan, Kuwait, Iraq, and Iran are concerned; if he wishes to inject himself into the tortuous politics of Castroism and his efforts to take over democratically elected governments in Latin America, such as Venezuela; then he should not have a substantial interest in any oil company, which inevitably is deeply involved in both the politics and economics of those countries.

I note parenthetically that the Armed Services Committee required Mr. McNamara to divest himself of his substantial stockholdings before recommending the confirmation of his appointment to the Office of Secretary of Defense a year ago, and the committee did not think Mr. McNamara's offer to place his stock in an irrevocable trust removed the conflict of interest.

I shall read into the RECORD a couple of excerpts from a memorandum furnished to me, at my request, by the legislative counsel which appears in full in the RECORD of January 29, 1962, at page 973.

First I refer to section 434 of title 18, United States Code, which deals with "interested persons acting as Government agents" and provides:

> Whoever, being an officer, agent or member of, or directly or indirectly interested in the pecuniary profits or contracts of any corporation, joint-stock company, or business entity, is employed or acts as an officer or agent of the United States for the transaction of business with such business entity, shall be fined not more than $2,000 or imprisoned not more than two years, or both.

That statute was recently interpreted very broadly by the Supreme Court of the United States in one of the cases arising out of the Dixon-Yates transaction, *United States* v. *Mississippi Valley Generating Company* (364 U.S. 520), in January of 1961. I shall read a couple of excerpts from the opinion of the Court:

> The moral principle upon which the statute is based has its foundation in the Biblical admonition that no man may serve to masters, Matthew 6: 24, a maxim which is especially pertinent if one of the masters happens to be economic self-interest. Consonant with this salutary moral purpose, Congress has drafted a statute which speaks in very comprehensive terms.

I paraphrase to say that the section is not limited in its application to Government agents who have a direct financial interest in the business entities with which they negotiate on behalf of the Government, or to a narrow class of business transactions. I resume the quotation:

> Nor is the statute's scope restricted by numerous provisos and exceptions, as is true of many penal statutes. Rather, it applies, without exception, to whoever is directly or indirectly interested in the pecuniary profits or contracts of a business entity with which he transacts any business as an officer or agent of the United States.
>
> It is also significant, we think, that the statute does not specify as elements of the crime that there be actual corruption or that there be any actual loss suffered by the Government as a result of the defendant's conflict of interest. This omission indicates that the statute establishes an objective standard of conduct, and that whenever a Government agent fails to act in accordance with that standard he is guilty of violating the statute, regardless of whether there is positive corruption. The statute is thus directed not only at dishonor, but also at conduct that tempts dishonor. This broad proscription embodies a recognition of the fact that an impairment of impartial judgment can occur in even the most well-meaning men when their personal economic in-

terests are affected by the business they transact on behalf of the Government. To this extent, therefore, the statute is more concerned with what might have happened in a given situation than with what actually happened. It attempts to prevent honest Government agents from succumbing to temptation by making it illegal for them to enter into relationships which are fraught with temptation.

Then as the legislative counsel reviewed this case and the statute in substantially greater detail, he stated:

The language of the court suggests that certainty of financial gain is not a necessary element of section 434, but that a substantial probability of such gain will suffice under that section. Indeed, the court in its technical holding held if a Government agent may benefit financially from his transactions he violates the statute.

In conclusion the legislative counsel points out:

If Mr. McCone were to serve as Director of the CIA, section 434 of title 18, United States Code, could have no application unless, during his incumbency, the CIA did in fact have business transactions with one or more of the companies in which he then had a financial interest.

And again:

If in his capacity as Director of the CIA Mr. McCone were to participate on behalf of the Government in a business transaction with a company in which he is financially interested and from which he might realize financial gain, the provisions of section 434 would become applicable whether or not Mr. McCone believed his actions to involve a conflict of interest.

Finally, the legislative counsel said:

The decision in Mississippi Valley suggests that the giving of approval to a contract negotiated by others probably would be regarded as such a participation. What other forms of action taken by a Government officer with respect to a contract which may be regarded as participation remains undecided.

I turn now to the brief provisions dealing with conflict of interest which have been adopted by the CIA itself. Let me say that I have been reliably informed by my friend the Senator from Missouri [Mr. SYMINGTON], who is present in the Chamber, that the nominee did not know that these regulations of the Agency existed at the time he appeared before the Committee on Armed Services.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. CLARK. I am happy to yield.

Mr. SYMINGTON. It does not make any difference whether or not the nominee knew, because he did exactly the same thing before the Senate Committee on Armed Services this time that he did the last time when he appeared before the Joint Committee on Atomic Energy. Both times he offered to do anything the committee thought proper with his securities.

It cannot be construed as a criticism of the nominee that he does not handle his securities in accordance with the wishes of the Senator from Pennsylvania. The criticism should be lodged against the members of the Committee on Armed Services.

Mr. CLARK. Mr, President, I return to my quotation from the regulations of the Central Intelligence Agency dealing with the conflict-of-interest question. They were printed in the January 29 issue of the CONGRESSIONAL RECORD at page 974, at the bottom of the third column. I repeat them now:

(b) Conflicts of Interest.

1. Definition. A conflict of interest is defined as a situation in which an Agency employee's private interest, usually but not necessarily of an economic nature—

And I stress that language—

conflicts or appears to conflict—

I stress that language also—

with his Agency duties and responsibilities. The situation is of concern to the Agency whether the conflict is real or only apparent.

(c) Financial Interests. Employees may not (a) have direct or indirect financial interests that conflict substantially, or appear to conflict substantially, with their responsibilities and duties as Agency employees.

Mr. President, I now state briefly for the RECORD the facts gleaned from the hearings before the Committee on Armed Services with respect to the stockholdings of the nominee. These, too, appear in the January 29 RECORD at page 978, the first column:

Mr. McCone stated that he owned a little in excess of $1 million of stock in Standard Oil of California. He stated that the company had "extensive reserves in Arabia and in the offshore island in the Persian Gulf of Bahrein, and also extensive reserves in Sumatra, and Venezuela."

Standard Oil of California is one of the four companies which makes up the Arabian-American Oil Co. (Aramco), along with the Texas Co., Standard Oil of New Jersey and Mobil Oil. Aramco, according to Mr. McCone, does have relationships with the governments of Arabia and Bahrein.

I interpolate the note that Standard Oil of California in its August, 1961, report to stockholders, lists Mr. McCone as owning 18,318 shares, and as receiving 915 additional shares by way of stock dividend. The total value of 19,233 shares, according to New York Times listing for the $54.25 closing price of Standard Oil of California on the New York Stock Exchange yesterday, is $1,043,390.25.

Mr. President, I shall not deal in speculation. I shall not deal in published articles of syndicated columnists. I merely say that I think every well-informed American knows that the American oil companies are deep in the politics of the Middle East. We know also that the Central Intelligence Agency is deep in the politics of the Middle East. It is inconceivable to me that the Central Intelligence Agency representatives in the Middle East should not be in constant contact with the representative of the American oil companies in that area.

It may well be that sometimes the interests of the oil companies and the interests of the Central Intelligence Agency are not in accord, although most of the time they are. It has been widely alleged—and I have no way of knowing whether it is true or not—that in many instances the oil companies have been helpful to the Government of the United States, and no doubt to themselves also, in making arrangements for the Middle Eastern kingdoms and sheikdoms which involve business transactions covering large sums of money. I have no doubt that that will be the condition in the immediate future, for I see no immediate hope for the pacification of that unhappy area of the world; nor do I think it likely that in the years immediately ahead we will be able to avoid the type of covert operation in that area which I personally very much regret but which in all likelihood is in the national interest.

Accordingly, Mr. President, because I am of the view that the nominee by temperament is not qualified to hold a job calling for a judicial temperament rather than that of a protagonist or advocate; because I am concerned about his views toward peace in the world and concerned by his apparent view that there is little immediate chance of achieving it, and that sole reliance on military strength is a better policy—and in this, to be sure, I am paraphrasing, because I have no quotations, and I may be doing the nominee an injustice, although certainly in his public record he is one who has not been an advocate of the kind of policy which in my judgment represents the greatest chance of peace to our country; and finally, because I have come to the conclusion that his holding of stock in the Standard Oil Co. of California violates the law with respect to conflict of interest, I must regretfully oppose the nomination.

Mr. PELL. Mr. President, I rise to congratulate the Senator from Pennsylvania [Mr. CLARK] on his articulate, well-thought-out and brilliant speech.

Although I intend to vote for the confirmation of the nomination of Mr. McCone, I believe that the Senator from Pennsylvania and the Senator from Minnesota [Mr. MCCARTHY] have made a very real contribution to our understanding of the problem of the Central Intelligence Agency by the ventilation furnished by this debate.

I was particularly struck by the reference made by the Senator from Pennsylvania to the fact that he had little doubt as to Mr. McCone's ability, and that what was most important were the plans with regard to the organization of the CIA, which apparently is in very great need of reorganization.

I believe there are three areas of possible reorganization. The first was brought out by a picture which was printed in the January 14 issue of the Washington Post, which showed the Central Intelligence Building. An intern in my office counted the number of windows. There are 2,500 windows alone in the building, Mr. President. That fact would indicate that a very helpful start in its reorganization would be a reduction in its size.

The second reorganization, as the Senator from Pennsylvania has suggested, would be the separation of intelligence collection from the operations. Here, too, in the field of intelligence collection, there should be a further separation of covert collection of intelligence from overt research and analysis.

Third, Mr. President, I hope that the watchdog committee proposed by the Senator from Minnesota [Mr. MCCARTHY] may in fact come into being as a result of the debate on the nomination because—although I am misquoting Lord

Acton—absolute power corrupts absolutely, but unwatched absolute power corrupts even more absolutely.

Mr. SYMINGTON. Mr. President, I join the Senator from Rhode Island in saying I too have been interested to hear those constructive elements in the presentation which has been made this afternoon by the Senator from Pennsylvania.

Now back to the subject at hand. Mr. McCone believes, along with others, that the way to maintain peace is to stay strong so we can stay free

The Senator from Pennsylvania dwelt on the personalities of Mr. Dulles and Mr. McCone. I know both. In my opinion Mr. McCone has at least as judicious a temperament as Mr. Dulles and I respect them both.

The question of whether we should or should not take the Central Intelligence Agency away from the Armed Services Committee should not develop into criticism of how Mr. McCone will perform his job.

I have a short memorandum about conflict of interest and McCone's position.

The conclusions of the memorandum submitted to Senator Clark by Mr. Hugh C. Evans, Assistant Counsel, Office of Legislative Counsel, are that there will be a conflict of interest if:

One. While Mr. McCone is Director of CIA, the agency had business transactions with one or more of the companies in which he has, at the same time, a financial interest;

Two. In his capacity as Director, Mr. McCone were to participate on behalf of the Government in a business transaction with a company in which he has a financial interest and from which he might realize financial gain.

If either of the above events were to occur, there would be a conflict of interest.

Prior to the assumption of office, Mr. McCone submitted to the General Counsel of the CIA for examination a list of his financial holdings, to determine if any conflict of interest existed. The General Counsel of the CIA submitted to Mr. McCone a written opinion, stating that no conflict of interest could be found on the basis of his holdings; that the Agency had no contracts with any of the companies in which Mr. McCone owns stock; and that, under existing statutes and regulations, no conflict-of-interest situation existed.

As Mr. McCone testified at page 44 of the hearings, this entire matter was reviewed with the Assistant Attorney General, Office of Legal Counsel, Department of Justice, who concurred in the opinion of the General Counsel of the CIA.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the memorandum of January 15, 1962, entitled "Memorandum on Conflicts of Interest," having to do with Mr. McCone's financial holdings, signed by the General Counsel of the Central Intelligence Agency.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM ON CONFLICTS OF INTEREST

1. We have reviewed the list of Mr. McCone's financial holdings which is attached hereto.

2. Stock ownership as such is not barred by the conflict-of-interest statutes. The problem arises only if a person with pecuniary interest in a company acts as an officer or agent of the United States in the transaction of business with that company (18 U.S.C. 434). The Assistant Attorney General's memorandum to the assistant to the President in connection with Mr. McCone's proposed appointment to the Atomic Energy Commission stated that the mere coincidence of Mr. McCone's employment as Chairman of the Commission and the formation of a contract between the company and the Commission would not involve Mr. McCone in a violation of section 434. In this connection they cited an opinion by Acting Attorney General Rogers of August 5, 1957, in connection with the appointment of Mr. McElroy as Secretary of Defense. In this memorandum Mr. Rogers stated: "Although personal action on the part of the Secretary might pose a serious conflict-of-interest problem under section 434, I know of no judicial decision suggesting that the existence of ultimate official responsibility for all the activities of a department constitutes per se the 'transaction of business' within the meaning of section 434. Moreover, neither the express language of the section nor its legislative history are indicative of such a result."

3. I have had the companies shown on the list of Mr. McCone's holdings checked by the appropriate components of the Agency. We have no business negotiations or contracts within the meaning of section 434 with any of them. We have in the past had research and development and procurement contracts with one company, but at the present time we are merely following certain programs being carried out by the company for possible future interest.

4. I am of the opinion, therefore, that no question of conflict of interest arises out of the financial holdings of Mr. McCone. I have discussed this with the Assistant Attorney General, Office of Legal Counsel, Department of Justice, and he concurred in my opinion.

LAWRENCE R. HOUSTON,
*General Counsel.*

Mr. SYMINGTON. Mr. President, the Senator from Pennsylvania [Mr. CLARK] placed in the RECORD excerpts from the Central Intelligence Agency's rules on employee conduct, dealing with conflict of interest. This regulation on employee conduct was issued pursuant to the requirements of Executive Order No. 10939, in which the President directed each department and agency head to review and issue internal directives appropriate to his department or agency to assure the maintenance of ethical and moral standards therein. The agency regulation thus issued on August 29, 1961, was designed to acquaint employees and supervisors with proper standards of conduct and to encourage the bringing forward of all situations, even though they might only apparently involve conflicts of interest. It was intended that there be full and careful review of any potential situations involving conflict of interest, to determine necessary actions to be taken if any such situation did exist.

Mr. McCone followed that procedure by submitting to the agency, shortly after his nomination to the Office of Director of Central Intelligence was announced by the President, a list of his personal holdings so they could be reviewed.

As indicated, after thorough review, by the Agency general counsel and approval by the Attorney General's office, it was concluded that no conflict of interest was involved.

A Member of this body told me he felt this opinion of the counsel of the Central Intelligence Agency was weak. The memorandum does not read weak to me. But to satisfy myself, I talked to the general counsel of the Agency concerning the question, and asked him:

Mr. Houston, some of my colleagues feel that the memorandum on conflicts of interest, which you wrote as of January 15 with respect to Mr. McCone's financial holdings, is weak.

It seems to me that it is a statement which says that he does not have a conflict of interest. Would you be good enough to let me know how you feel about it?

Mr. Houston dictated this reply:

While the memorandum necessarily discusses in detail the statutory restrictions on conflicts of interest, in writing it we took consideration all Agency policies and regulatory issuances, and in addition the overall position of the Director of Central Intelligence, and I felt that no aspect of these considerations presented a conflict of interest, and the memorandum so concludes.

I still believe this is the correct conclusion.

Let me say again that if there is any difference, it is a difference with the Armed Services' Committee, because Mr. McCone has agreed to handle his holdings as the committee believes desirable.

Mr. President, I yield the floor.

Mr. SMATHERS. Mr. President, I have carefully read the hearings before the Committee on Armed Services on the nomination of John A. McCone to be Director of Central Intelligence, and have concluded that in the light of his background and wide range of experience in positions of high public trust under both Democratic and Republican administrations, that the people of the United States are indeed fortunate to obtain his services once again.

Mr. McCone's outstanding qualifications, his tested ability and unquestionable character are matched by few men in public service. There is no question in my mind but that he will carry out his responsibilities with the same degree of distinction and honor in which he has performed in past positions of high public trust.

The President of the United States is to be congratulated on selecting an individual with such outstanding qualifications for this important and sensitive post of high public trust.

I shall vote for his confirmation.

## AMERICA AND THE SUPERPATRIOTS

Mr. McGEE. Mr. President, I invite the attention of Senators to a letter written to the editor of the Sheridan, Wyo., Press. The letter was written by Mrs. Edna Stewart, of Story, Wyo. In the letter she wrote of her faith in America and our basic freedoms, and directed particular attention to what she calls the superpatriots and their arbitrary attitude in regard to who is to

There is a question of conflict of interest. It is a most difficult and vexatious question. Under the preceding administration—a Republican administration—I felt at times that something should be done to correct the methods by which we judged men, and which on occasion kept good men out of government, because of their business interests.

It seems to me that there could be found some way whereby a nominee to a high post in our Government could be accorded a greater degree of respect, and whereby he would not be considered to be lacking in integrity because he happened to be wealthy. Nevertheless, the spirit of the conflict-of-interest laws should be maintained, in order that the interests of the public, the Government, and indeed the various nominees to public office may be protected. As I say, the question is a difficult one. It has plagued both Democratic administrations and Republican administrations.

Mr. President, now that I have expressed my feeling on this question, I hope that at an appropriate time the appropriate committees will look into the question of appropriate conflict-of-interest law revision, and will ascertain whether they can clarify the matter and can arrive at better procedures.

I recall the very effective job Mr. McCone performed as Under Secretary of the Air Force. I know how, in the Atomic Energy Commission, he brought a good degree of order out of a difficult situation, and in so doing—at least, such is my understanding—earned the confidence of all members of the Joint Committee on Atomic Energy; and I am sure he holds that confidence to this day.

The charge has been made that he has not had much acquaintance with intelligence activities. Maybe not. I do not know. But certainly, as an Under Secretary of the Air Force, as Chairman of the Commission on Atomic Energy, he must have had some contact with activities of this kind, and certainly he must have gained considerable experience in intelligence matters related to the security of the United States.

Mr. President, I intend to vote for John McCone, because of the personal faith and confidence I have in him, and because he is the President's nominee; and I think that, under the circumstances, it would be fitting if a substantial majority of this body gave a vote of confidence to this nominee. I am sure the President and the Congress will not be disappointed in his directorship of the Central Intelligence Agency.

I intend to vote for Mr. McCone tomorrow.

Mr. DIRKSEN. Mr. President, will the majority leader yield?

Mr. MANSFIELD. I yield.

Mr. DIRKSEN. I am glad the distinguished majority leader alluded to the necessity for action in this field. Last year the President sent a message to the Congress on the matter of conflict of interest. A bill was submitted by the Attorney General. Some hearings have been held. There are items to be considered in that bill, but it is highly necessary, because the statutes with which we deal now, and that come into play with respect to many nominees, go back as far as the year 1873.

I concur in the majority leader's views in that respect, and I hope the Judiciary Committee, to which those matters have been referred, can, before too long, finish its deliberations and bring these bills to the Senate Calendar.

## LEGISLATIVE PROGRAM

Mr. DIRKSEN. Mr. President, I should like to ask the majority leader about the schedule for the remaining days of the week, and perhaps the early days of next week.

Mr. MANSFIELD. Mr. President, in response to the question raised by the distinguished minority leader, it is the intention to bring up tomorrow, after conclusion of the vote on the nomination of Mr. McCone which will take place at 2 o'clock, three treaties which are on the Executive Calendar—Executive G, the convention between the United States of America and Canada; Executive M, the international convention for the Northwest Atlantic fisheries; and Executive N, a protocol dated at Montreal June 21, 1961, relating to an amendment to the Convention on International Civil Aviation.

To the best of my knowledge, these treaties were reported out of the Committee on Foreign Relations unanimously, and I do not know of any opposition to them.

Then it is anticipated that the Senate will go over from tomorrow until Friday, and it is hoped at that time we can take up the bill for higher education, Calendar No. 1053, S. 1241.

It is hoped that following that, on Monday or as soon thereafter as is possible, the money resolutions will be taken up, under the various committees, subcommittees, special committees, and so forth, live and function.

It is anticipated that shortly thereafter consideration will be given to Calendar No. 891, S. 2520, a bill to amend the Welfare and Pension Plans and Disclosure Act with respect to the method of enforcement and to provide certain additional sanctions, and for other purposes.

That ought to bring us pretty close to, if not beyond, the period set aside for the commemoration of Lincoln's birthday, which, to repeat, will include February 9, 10, 11, 12, and 13, inclusive, days on which there will be no votes, and perhaps February 8 and February 14. However, so far as the 8th and 14th are concerned, no definite commitments have been made. None will be made. It will depend on circumstances on those days as to whether or not there will be a vote.

Mr. DIRKSEN. I thank the majority leader. That gives us a chance to set personal schedules actually some time beyond that point.

## LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate return to legislative session.

The motion was agreed to; and the Senate resumed the consideration of legislative business.

## CONVEYANCE OF CERTAIN REAL PROPERTY TO THE STATE OF WYOMING

The PRESIDING OFFICER (Mr. HICKEY in the chair). The Chair lays before the Senate the unfinished business.

The Senate resumed the consideration of the bill (H.R. 3879) to authorize and direct the Secretary of Agriculture to convey to the State of Wyoming for agricultural purposes certain real property in Sweetwater County, Wyo.

## EXTENSION OF COMPLETION TIME FOR FREE BRIDGE BETWEEN UNITED STATES AND CANADA

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1133, Senate bill 512, and that it be made the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 512) to extend the time for completion of the free highway bridge between Quebec, Maine, and Campobello Island, New Brunswick, Canada.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to; and the Senate proceeded to consider the bill.

## EXECUTIVE SESSION

The Senate resumed the consideration of executive business.

## DIRECTOR OF CENTRAL INTELLIGENCE

The Senate resumed the consideration of the nomination of John A. McCone, of California, to be Director of Central Intelligence.

Mr. CASE of South Dakota. Mr. President, I have been reviewing the testimony which was taken by the Committee on Armed Services in the hearings on the nomination of Mr. McCone to be Director of Central Intelligence. In reviewing that testimony, and in looking at the statement of holdings which he filed with the committee in response to my request, a question occurred to me which I think should be raised and which should be brought to the attention of the Senate.

In view of the fact that the voting will take place tomorrow at 2, I regret that I did not look up this point earlier, because, I must confess, I do not have as much information as I should like to have at this time.

During the testimony Mr. McCone gave, it became apparent that the majority of his business interests have to do with the transporting of oil and the transporting of other bulk commerce in world sealanes for one purpose or another.

The question occurred to me this afternoon, as I was looking over the testimony, as to whether or not that established a tax-free status for the income from these corporations and the shipping operations which are his primary business activity.

The Internal Revenue Code, section 883, under the title "Exclusions From Gross Income," provides:

The following items shall not be included in gross income of a foreign corporation, and shall be exempt from taxation under this subtitle:

(1) SHIPS UNDER FOREIGN FLAG

Earnings derived from the operation of a ship or ships documented under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States.

During the past hour or so I asked my administrative assistant to consult as many tax authorities as he could. It is his tentative opinion that the operation of that section of the statute would exclude from liability for taxation under the income tax laws of this country ships which are under a foreign flag if the flag of that country grants an equivalent exemption to citizens of the United States.

I have not had time to determine whether that would be applicable to ships under the Norwegian flag or to ships under the Panamanian flag, but this becomes a question of considerable importance because of the testimony as to the chartering of ships which are operated by companies in which Mr. McCone is interested.

At page 66 of the printed hearings I asked Mr. McCone the following:

You have testified that you were the sole owner of Joshua Hendy in the operations of Trans-World Carriers, of which Joshua Hendy apparently owns one-fourth, and Global Bulk one-half. Would you say you had no indirect interest in the operation of Trans-World Carriers?

Mr. McCone replied:

No; I have a direct interest in Trans-World Carriers, no question about that. Because, as a matter of record, and this is a change from the situation that existed in 1958, I have personally acquired and own now the great majority of the stock in San Marino Corp., and, therefore, through the sole ownership of Joshua Hendy Corp. and the ownership of 85 percent of San Marino Corp., I own practically half of Trans-World Carriers at this point.

That testimony which he gave in answer to my question is at variance with or should be regarded as a modification of his earlier statement, when he was questioned by the Senator from Massachusetts [Mr. SALTONSTALL].

The Senator from Massachusetts [Mr. SALTONSTALL] referred to the investigation of a subcommittee in May 1950, and the interrogation at that time, when Mr. McCone was appointed to be the Chairman of the Atomic Energy Commission. The Senator from Massachusetts asked him:

Have any of the facts which you gave out in your memorandums, in your letters in 1950 and in 1958 to the committees, changed between 1958 and the present time?

Mr. McCone answered:

No. There has been no change.

However, when I interrogated Mr. McCone with respect to the matter of the ownership of Trans-World Carriers, he said:

No; I have a direct interest in Trans-World Carriers, no question about that. Because, as a matter of record, and this is a change from the situation that existed in 1958.

I emphasize that by rereading it, because I think Mr. McCone sought to correct his earlier statement when this was called to his attention, but it also has significance because in a subsequent statement he said he owned the great majority of the stock in San Marino Corp. The San Marino Corp. was referred to earlier in the testimony as a Panamanian corporation.

Subsequently in the testimony I asked Mr. McCone:

Do you know of any working arrangements or partnerships between the Joshua Hendy Steamship Line or its affiliate, Panama Pacific Tankers, and affiliates or subsidiaries of States Marine?

Mr. McCone replied:

Yes. There are joint arrangements—whether they are with States Marine or whether they are with Global Bulk Carriers, I could not say, but it is a little hard to differentiate between the two or three corporate structures on States Marine side.

I then asked:

Do you know whether or not there is a working agreement between States Marine and Global Bulk and the San Marino Co. for the chartering of certain ships through Naviors, a subsidiary of United States Steel?

Mr. McCone replied:

Yes, I believe there is a working relationship; the relationship between Trans-World Carriers and Naviors and Trans-World Carriers is, in turned, owned by the people you have indicated.

As I read from the testimony earlier, Mr. McCone owns practically 50 percent, through his other ownership, of Trans-World.

The following colloquy then occurred:

Senator CASE. You have a partnership with States Marine directly or through a subsidiary in the operation of any Norwegian-flag tankers built in Japan for Trans-World?

Mr. MCCONE. Yes, we do that. We have a tanker that we own jointly that was built in Japan and registered under a Norwegian flag, and we have it under charter from a Norwegian corporation.

Senator CASE. Do you recall the name of that ship?

Mr. MCCONE. I was trying to think of it. No, I do not recall it, Senator.

Senator CASE. Is that vessel engaged in transporting oil?

Mr. MCCONE. Transporting oil; yes, sir.

Senator CASE. For Standard Oil of California?

Mr. MCCONE. For Standard Oil of California; yes, sir.

Senator CASE. Why is it necessary to have complicated arrangements where you build vessels in Germany or Japan, and then leased to Norwegian operators to fly under Panamanian or Norwegian flags rather than U.S. flags?

Mr. MCCONE. The vessels are owned by Norwegian companies and they are operated under Norwegian flags, and that is the only way that they could be competitive because of the high costs of American-flag operations.

Our American-flag operations are restricted to the protected areas of trade such as the coastwise and intercoastal trade.

Senator CASE. Do you know where the principal oil reserves of Standard Oil of California are?

Mr. MCCONE. In a general way, yes, I do, Senator. I know they have extensive reserves in Arabia and in the offshore island in the Persian Gulf of Bahrein, and also extensive reserves in Sumatra, and in Venezuela.

Mr. President, all this becomes significant as one goes back through the record and notes that the steamship operating companies affiliated either with Joshua Hendy, of which Mr. McCone testified he owned 100 percent, or with other companies in which Mr. McCone owns a majority interest, either directly or through a subsidiary company, are largely Panamanian companies.

Panama Pacific Tankers, in which Mr. McCone owns a substantial interest, is a Panamanian corporation. Its bulk cargoes in world commerce are principally iron, coal, and some oil.

San Marino, in which Mr. McCone owns 85-percent interest, is a Panamanian corporation.

Redwood Corp., of which he is a substantial owner, is a Panamanian corporation. Its business is the worldwide movement of petroleum.

Trans-World, of which Mr. McCone indicated he had 50-percent ownership, is a Panamanian corporation.

These facts lead one to wonder if a part of the problem of the high cost of American-flag operations does not relate to the income tax liability of ships operated under the American flag as well as to other high costs which might be suggested in the statement:

The vessels are owned by Norwegian companies and they are operated under Norwegian flags, and that is the only way that they could be competitive because of the high costs of American-flag operations.

I connot say, because time has not been available to run it down through independent sources, and the hearings before the committee on the nomination of Mr. McCone have been concluded.

During the time we were taking testimony from Mr. McCone I asked him at some length about the record which was established by the House Committee on Merchant Marine and Fisheries under the chairmanship of Schuyler Bland, of Virginia, when the committee interrogated him and conducted an extensive investigation into the profits which were made by Mr. McCone's company as a shipbuilding corporation during the early stages of World War II.

The testimony is set forth in some detail in the hearings on Mr. McCone's nomination, as well as in the original hearings conducted by Mr. Bland. The testimony indicates that the California Ship Building Corp., which was organized by Mr. McCone and some others with about $100,000 capital, in a year declared a dividend of a million dollars, half of which was paid in cash

and the other half of which was by subscription to capital, so the capital of the corporation was increasing to $600,000.

The testimony of the Comptroller General was that profits grossing about $44 million were made in a relatively short time by the California Ship Building Corp., using facilities which had cost the Government $25 million.

Mr. McCone is entitled to have it said that he contended at the time, and he contends now, that in addition to the $100,000 of actual cash which he and his associates put into the California Ship Building Corp., they subordinated loans of $2 or $3 million to the corporation. But in any event, a very substantial profit, running into many millions of dollars, was made.

The thing which originally intrigued my interest on this subject was that by some action of the U.S. Maritime Commission, back in about 1946, the operation of the California Ship Building Corp. in this connection were exempted from the operation of the renegotiation statute. The renegotiation statute stemmed from an amendment which I offered to the sixth supplemental defense bill, which was passed in the House of Representatives in April of 1942. At that time it was intended that no exemption should be made from the operations of the renegotiation statute except by a decision of the renegotiation officials, that is, the Price Adjustment Board or other agencies which were its successors. I talked with the counsel of the Renegotiation Board only a few days ago in connection with this subject, and he said that it was clear today that no agency of the Government, aside from the Renegotiation Board, had the discretion to exempt a corporation from operation of the renegotiation statute.

But apparently back in 1946 the Maritime Commission presumed to exempt the operations of the California Shipbuilding Corp. from renegotiation. Whether because of that action or not I do not know, but they made very large profits—profits so large, in fact, that Ralph Casey, who was a representative of the General Accounting Office, testified before the Committee on Merchant Marine and Fisheries of the House of Representatives:

> I daresay that at no time in the history of American business, whether in wartime or in peacetime, have so few men made so much money with so little risk, and all at the expense of the taxpayers not only of this generation but of generations to come.

During World War II it became apparent that Mr. McCone and his associates discovered that one way to make a good deal of money, and make it in a hurry, was to be exempted from the normal operations of renegotiation, or to avoid recoveries by the Treasury Department, the Bureau of Internal Revenue, or the Price Adjustment Board. The question that inevitably comes to my mind in connection with a review of the testimony of these various world shipping operations is that company after company is organized under the laws of Panama, and ships travel either under the Panamanian flag or under the Norwegian flag, if it is a ship chartered by Norway. Mr. McCone has said:

> This is the only way they could be competitive because of the high cost of American-flag operations.

I hope that Mr. McCone will learn of my statements on the floor of the Senate at this time. Because of the time limitation and because of the time fixed for the vote tomorrow, this is the only time at which they could be made. I am not saying that the bulk of the admittedly large wealth which he has accumulated is due to the fact that operating ships under Panamanian corporations or under the Norwegian flag has exempted all of the income from liability for taxes of the United States. But I should like to know whether or not that is the case, for the citation from the Internal Revenue Code which I read earlier clearly exempts from taxation under the head "Exclusion From Gross Income: Ships Under a Foreign Flag." I think that point has a bearing upon the issue, and it is quite apart from what is normally considered conflict of interest.

The conflict of interest statute relates to procurement, and it specifically provides that—

> Whoever, being an officer, agent or member of, or directly or indirectly interested in the pecuniary profits or contracts of any corporation, joint-stock company, or association, or of any firm or partnership, or other business entity, is employed or acts as an officer or agent of the United States for the transaction of business with such entity, shall be fined not more than $2,000 or imprisoned not more than two years, or both.

That is paragraph 434, title 18, United States Code. That provision clearly is restricted to one who "acts as an officer or agent of the United States for the transaction of business with such entity."

I do not suppose that the Central Intelligence Agency will have a great deal of business with these various shipping companies. I do not suggest that the CIA will have a great deal of business with the Standard Oil Co. of California or some of the other firms from whose directorship Mr. McCone has resigned, but in which he still owns substantial interests, in many instances amounting to a million dollars or more. But I do suggest that logical questions in the mind of anyone concerned with the activities of the Central Intelligence Agency are, "Where are a man's interests? What is his background? Is he objective?"

At the outset of my questioning during the hearings, when Mr. McCone was before the Committee on Armed Services, I said to him that I respected his ability. I coveted his ability for the service of the United States, but I hoped that we might be able to determine and demonstrate his objectivity.

I think he was frank with the committee. I did not detect any evasion on any question that was asked. A man is entitled to the use of notes to refresh his memory of incidents that occurred 15 or 16 years ago. But admitting all that, when we remember that at the outset of our hearing the chairman of the Senate Committee on Armed Services said that he regarded the position of directorship of the Central Intelligence Agency as second in importance only to that of the presidency of the United States, it becomes important that we feel that the man who is in that position has a complete objectivity, so that he will feel that what is good for the United States is good for the interests he represents.

I need not refer to the fact that a gentleman who was Secretary of Defense a few years ago received some criticism and some opprobrium because he happened to remark that he believed that what was good for General Motors was good for the United States. Of course, the unfortunate thing about his statement was that he did not put it the other way. I think he meant that what is good for America is good for General Motors.

I would like to have complete satisfaction in my own mind that Mr. McCone would not merely say but would feel that what is good for the United States is good for Trans-World Carriers, for San Marino Co., a Panamanian corporation, for Redwood Corp., a Panamanian corporation, for Panama-Pacific Tankers, which is a Panamanian corporation, and for all the shipping companies which are engaged in worldwide commerce.

I have no doubt that if he were asked that question he would say that he really believes that what is good for the United States is good for these companies.

However, the question which every Senator must decide for himself is whether, with this background and with this far-flung empire of many shipping companies, which went to foreign countries for incorporation, the many interests which go to other countries to get ships which can fly the flags of other countries because competitive costs in the United States are too high, and possibly because at least some of the income from that shipping interest will be exempt from taxation under the laws of the United States; and after hearing and reviewing the testimony, one can escape some doubt as to whether this worldwide interest may not at some time, as we look over the whole spectrum of world affairs, influence the emphasis of the Director of Central Intelligence Agency either in the gathering of intelligence or in the recommendation for or direction of covert activities.

I have not reached a final decision as to how I shall vote tomorrow afternoon on the nomination. I voted to report the nomination from the committee. At that time I did refer to these questions which I had asked during the hearings. I said I had asked them hoping that it would be helpful in making Mr. McCone sensitive to this area of possible conflict of interest, and hoping that by asking these questions we could perhaps demonstrate his objectivity.

At the conclusion of my questioning I asked him two questions. I asked him whether he would submit a list of his stockownership, as he did in connection with the case of his confirmation for

membership on the Atomic Energy Commission. I asked him also whether he would agree to set up an irrevocable trust, as he had done before his nomination for his position on the Atomic Energy Commission was confirmed.

Earlier during the questioning, in response to some questions submitted by the Senator from Massachusetts [Mr. SALTONSTALL], Mr. McCone said he would have no objection to setting up an irrevocable trust if there were some reason to do so. He did not respond directly to the question when I asked it at the conclusion of my examination. He did say that he would submit the list of his holdings. He did submit that list, and I have had an opportunity to examine the list. I am not violating any confidence with respect to the list, because by going to the printed testimony, particularly with respect to the questions which were directly asked him and to which I have already referred, one can see that all I have said about the background and origin of these corporations and of his interest in them is set forth in the hearings. The list that he filed would be merely confirmatory of what he said so far as ownership is concerned and what is in the hearings.

The list was submitted. I personally do not know whether it would do any good if an irrevocable trust were set up. I do not see that that of itself would matter particularly, because I do not anticipate that he, as the Director of CIA, would act as the procuring agent so far as these companies are concerned in any business between them and the United States.

However, it is that background, that interest, that education, that indefinable awareness of interest and knowledge of conditions in Saudi Arabia and the Middle East which raises the possibility that the disturbed conditions in the Middle East or in the Far East might seem to him to be more important than the disturbed conditions in the Gulf of Mexico or the Caribbean. Would he be more interested in maintaining stable order in Kuwait than he would be in resisting infiltration in Cuba? Would he be more interested in stabilizing Vietnam than Venezuela? I confess that I do not know.

I feel that in the Western Hemisphere, the United States has some special responsibilities. The historic position of the Monroe Doctrine has given us all these responsibilities, and we cannot escape them in this generation even if we so desired. The distinguished delegation which is now in Uruguay is seeking to meet some of the responsibilities of the United States in the Western Hemisphere. I do not see any comparable responsibility for us in some other parts of the world that I might name, although I agree we have responsibilities there.

I close these remarks by saying that I covet for the directorship of the Central Intelligence Agency a man who has the organizing ability, who has the knowledge of world affairs, who has the scientific background, and who has the calm approach to matters that Mr. McCone evidently has. I wish I could be sure. I hope something will help me by tomorrow afternoon at 2 o'clock to be sure that this man will have that objectivity in every instance to put the interests of the United States—in emphasis, in direction of activities, and in a collection of intelligence—ahead of any of this far-flung shipping empire which he has established.

Mr. BARTLETT. Mr. President, it is apparent that the Senator from South Dakota is deeply troubled by the matters which he has discussed this afternoon. For my own part, I, at least, admit an equal concern over those matters and others. As the Senator from South Dakota did, I, too, voted in committee to report the nomination of Mr. McCone.

On this day and at this hour I do not know how I shall finally vote at 2 o'clock tomorrow afternoon when the Senate will vote either to confirm or reject the nomination of Mr. McCone as Director of the Central Intelligence Agency.

I had never seen Mr. McCone until he appeared the other day before the Committee on Armed Services. Of course, on the basis of hearing a man speak for an hour or two, and trying to size him up, as it were, one is not in the best of all circumstances to make an objective evaluation. However, I came away from that meeting with the idea that he is a patriotic man and a devoted man and a man of integrity according to the best of his own lights.

However, the question that I put to myself over and over again is this: Is his conditioning, because of all his previous business history, such as to enable him to give, in the overall direction of this most important Federal Agency, the objective look which, as the Senator from South Dakota has stated, is so imperatively needed?

The Director of that Agency certainly cannot place greater emphasis upon one section of the globe than upon another. He must forget all past and previous private connections and look toward the good of the United States as a whole.

Personally, I have no doubt that Mr. McCone would do his honest best to reach that situation. My questions would only revolve around the point as to whether he could be completely objective. I certainly hope so.

I recall that in committee the other day I asked Mr. McCone about the Arabian-American Oil Co., a company formed by several large U.S. oil companies. I reported to Mr. McCone having heard, as so many of us have, that it has been said that this oil combine has in the past interfered in the foreign affairs of some Middle East nations for the benefit of the oil company.

Mr. McCone's reply was:

> No, I would have no comment because I have not personally read or heard of those allegations. In my trips to the Middle East, I have observed that the Aramco people handled their relationships with the Governments of Arabia and Bahrein Island in a very satisfactory way, so reported to me. I don't know of any interference.

My query now would relate to those words used by Mr. McCone, that the Aramco Co. handled their relationships with the Governments of Arabia and Bahrein Island in a very satisfactory way. Satisfactory to whom? Satisfactory in every case to the Government of Arabia from the standpoint of its own national interest, and satisfactory to the governments of other nations with which this oil company might have conducted private negotiations? I do not assert or even allege that the Arabian-American Oil Co. ever did any such thing. But it has been so reported.

Or, to use again by way of quotation the words "very satisfactory way," was it a very satisfactory way for the oil company itself? We are not informed.

Finally, a most important question relating to all this subject, is, was that a very satisfactory way in each instance for the Government of the United States, for the U.S. national interest?

Mr. President, I do not intend further to labor this point or this issue at this late hour. I had not intended to speak further on the subject. However, I decided to do so only during the time when the Senator from South Dakota [Mr. CASE] took the floor to express his doubts, his concern, because my feelings are so close to being identical with his and because I, too, do not know at this time how I shall finally vote.

If it should be, as it may be, as many say it probably will be, that Mr. McCone's nomination will be confirmed, I certainly would want to be in the forefront of those who wish him well in this most significant and critical assignment.

## MILITARY RESEARCH IN ALASKA

Mr. BARTLETT. Mr. President, Alaska today is a growing center of research activity. The three military services and many other governmental and private institutions are conducting research and development programs which strengthen the Nation not only in the present but for the future.

U.S. Army, Alaska—the only Army oversea command operating entirely in a northern environment—is the spearhead for the Army's growing research program.

The Army's northern operations concept calls for employment of fully mobile, extremely powerful, streamlined task forces of battalion and brigade size. In the course of training and experimentation to improve its capabilities to form, fight, and support such forces, USARAL generates requirements for new materiel and techniques which are a primary source of guidance for Army cold weather research and development programs. The capabilities which are needed today for northern operations are applicable, in large part, to operations in such other undeveloped regions as the jungles of southeast Asia and might be required for the major battlegrounds of Europe and Asia. Thus the cold weather operations development program is, in fact, a leading edge of the Army's advance into the future.

Mobility is a first order problem of the Army today and in the north—whether North America or northern Siberia—it is a particularly urgent problem. USARAL requirements for very high mobility vehicles have led to

investigation of a wide variety of commercial configurations which promise a revolutionary increase in ground mobility over snow, muskeg, and swamp. In the future, ground effect machines and such other radical concepts as the flexwing airplane may find their first practical applications in the broad reaches of the north, where their potential for improvement of battlefield mobility can be brought quickly into practical use.

Since railroads are few in the north—as in many other parts of the world—USARAL has also formulated a concept for a tracked overland train with which a single truck crew can transport 50 tons or more of supplies across country, through swamp and snow. This vehicle will reduce greatly the requirements for roadbuilding by Army engineers and for vehicle operating personnel.

The deep zones of permanently frozen soil which underlie hundreds of thousands of square miles of the Arctic can be tunneled like coalfields. USARAL has developed a concept for constructing storage and other administrative facilities under the surface of the ground within the permafrost. Infra-permafrost construction will be fast and cheap; it will afford good camouflage; and it will provide excellent protection from nuclear weapons and other fire effects on the future battlefield. There is a possibility that this development project will lead to methods which will allow a combat unit to dig itself under the surface of the ground in all regions of the world rapidly; obviously, this would be of the greatest value in nuclear combat.

These concepts are typical of many others in the fields of firepower, communications, combat mobility and support which are directed toward the same objective—more effective and at the same time more economical combat forces.

To meet these requirements, the Army is placing an increasing concentration of research and development effort in Alaska. During the last summer, engineering test teams were transferred from Fort Churchill, Canada, to Fort Wainwright, adjacent to Fairbanks. At Fort Wainwright, Army research activities will have available for the first time, in U.S. territory, a virtually unlimited environmental test area with long, dependable seasons of cold weather, good administrative facilities, and the opportunity for close coordination with combat forces. The Army technical services at Fort Wainwright will conduct engineering tests of new equipment and carry out basic and applied research into northern operations problems. The program for the current winter test season includes a wide range of Engineer, Signal, Ordance, Quartermaster, Chemical, and Medical Corps research projects and equipment tests. The Transportation Corps has also established at Wainwright an activity which is performing trafficability experiments and investigations into vehicle performance problems.

The Corps of Engineers has conducted field study programs in Alaska for many years and these programs are now being increased. In the next few years Army research teams will conduct basic research throughout the State, to increase basic knowledge and to develop applications of basic scientific advances to the military art. Many of these applications will be equally important for nonmilitary activities. The use of permafrost excavations for storage of supplies is one example of the kind of research problem which is of interest to civilian as well as military activities.

An important potential for the future is the opportunity which Alaska offers for establishment of long-distance missile test ranges wholly over U.S.-owned territory.

At Fort Greely, a hundred miles southeast of Fairbanks and Fort Wainwright, the Arctic Test Board and the Chemical Corps' Arctic Test Team test newly developed equipment from the viewpoint of using troops in cold weather. These tests are important not only for operations in Arctic and sub-Arctic areas but for operations of the Army in Temperate Zone winters. It gets as cold in the Temperate Zone as it does in the sub-Arctic—Temperate Zone cold simply does not last for quite so much of the year. For the soldier in the field, 40 below zero is just as serious a problem in Eastern Europe as in Alaska or Siberia.

The research and engineering agencies at Fort Wainwright and the user test agencies at Fort Greely coordinate their efforts closely, and in the future an increasing effort will be made to conduct the engineering tests of the research agencies and the user tests of USCONARC simultaneously. This will save money and effort and, in many cases, may help reduce development lead time.

One of the important advantages resulting from the conduct of military research work in Alaska is the opportunity afforded research and testing personnel to work directly with operating forces. For example, during U.S. Army Alaska's winter maneuver in February 1962, a large-scale test of the new quick-serve ration will be conducted under the severest possible weather conditions by troops actually engaged in combat training. This is the only kind of test that gives the answer to the final question on any military item—Will it do the job in combat?

The Air Force and Navy are also active in Alaska research activities. The Navy operates the northernmost research facility of the United States, which is not actually in Alaska but in the Arctic Ocean off the north coast of Alaska. This is the ice island Arliss II, which was discovered by Max Brewer, director of the Navy's Arctic Research Laboratory, in May 1961, and occupied by a scientific party in the summer of 1961. Arliss II, which is about 1½ by 3½ miles in size and 80 feet thick, is relatively permanent compared with floe ice and constitutes an excellent base for conducting oceanographic and other studies.

The Arctic Research Laboratory at Barrow—the farthest northern portion of the North American Continent—is operated for the Office of Naval Research by the University of Alaska. The largest efffort of the Laboratory is in oceanographic studies. Specific areas of investigation include underwater acoustics, marine biology, geology of ice islands, sea ice micrometeorology, sea ice morphology, meteorological observations, and strain measurements.

In the Fairbanks area, the Air Force since 1947 has operated the Arctic Aeromedical Laboratory. This Laboratory is the aeromedical research facility of the Alaskan Air Command and as such is charged with the solution of Arctic problems of that command. At the same time, and perhaps of more general importance, it is the only human factors laboratory of the Department of Defense located in the Arctic and concerned exclusively with problems of far northern areas. The Laboratory conducts an in-house program of research on Arctic human factors problems. The in-house program is supplemented by contract work performed by various institutions, particularly universities, throughout the country. The Laboratory establishes Air Force requirements for clothing, individual equipment, operating procedures, and training problems for use in the Arctic. It evaluates Air Force clothing and equipment under Arctic conditions and it provides laboratory facilities, logistic support, and technical assistance to visiting research teams and field parties.

The military research and development programs are only part of the total scientific effort in Alaska. The annual proceedings of the Alaska Science Conference have covered in the past 10 years such a wide range of topics as agriculture, botany, and forestry; medicine, physiology, and public health; engineering, industrial science, and aviation; geology and geography; sociology, economics, and education; anthropology; geophysics, meteorology, and oceanography; wildlife and zoology.

The University of Alaska, in addition to operating the Navy's Arctic Research Laboratory at Barrow, has a strong program of research, particularly in the earth sciences—geology, geodesy, and similar disciplines. The Bureau of Public Health and other Federal and State agencies have made and are making major contributions to the understanding of cold weather physiology.

The importance of Alaska as a center of military and civilian scientific effort is great today and is growing steadily and rapidly. In any foreseeable future war, the north will be strategically critical, for self-evident geopolitical reasons. Of even greater ultimate importance is the fact that, as world population increases, the human need to use the lands of the north will increase. Current research and development efforts in Alaska are preparing the way for effective future peaceful use of the vast spaces and the unmeasured natural resources of the northern regions of North America and Eurasia.

## DIRECTOR OF CENTRAL INTELLIGENCE

The Senate resumed the consideration of the nomination of John A. McCone, of

California, to be Director of Central Intelligence.

Mr. CLARK. Mr. President, earlier this afternoon I spoke at some length with respect to the pending nomination and read into the RECORD a legal opinion furnished me by legislative counsel and also some quotations from the latest opinion of the Supreme Court on the conflict-of-interest question, namely, the Mississippi Valley case, involving the Dixon-Yates question, a case decided in January 1961. I was necessarily called from the floor after I completed my remarks, and the distinguished senior Senator from Missouri [Mr. SYMINGTON], made some comments in reply to my talk, to which I do not wish to advert at this time.

He did, however, place in the RECORD a memorandum on conflicts of interest, dated January 15, 1962, signed by Lawrence E. Houston, General Counsel of the Central Intelligence Agency, and indicated that in his view this memorandum, which ends with the conclusion that no question of conflict of interest arises out of the financial holdings of Mr. McCone, was persuasive to him.

With all deference to the distinguished Senator from Missouri, this memorandum is not persuasive with me, and I urge any Senators who may think it a rod on which they can lean in dealing with the conflict-of-interest question to take a good, hard look at the opinion of the legislative counsel and at the Supreme Court's decision in the Mississippi Valley case before they make up their minds finally. I note that the Court's opinion was not even discussed in the CIA memorandum.

In my opinion—and it is only one lawyer's opinion—the memorandum of the General Counsel of the CIA is very superficial, indeed, and is not persuasive. It states, in part, that the writer of the opinion knows "of no judicial decision suggesting that the existence of ultimate official responsibility for all of the activities of a department constitutes per se the 'transaction of business' within the meaning of section 434," which is the conflict-of-interest statute.

That sentence is carefully worded, indeed, but I suggest it is disingenuous, and that a reading of the Mississippi Valley case would convince any lawyer and many laymen that very broad and rigorous standards of conflict of interest were laid down by the Supreme Court of the United States in that case. This memorandum concludes that the CIA has no business negotiations or contracts, within the meaning of section 434, with any of the companies on the list of Mr. McCone's holdings. This statement is, of course, a pure conclusion of law and depends on the writer's view of the scope and intent of the statute.

I suggest that when one attempts to make up his mind as to whether a genuine conflict of interest exists with respect to the holdings by Mr. McCone of stock in the Standard Oil Co. of California, a wiser legal guide is the Supreme Court of the United States, rather than the General Counsel of the CIA.

Mr. CASE of South Dakota. Mr. President, will the Senator from Pennsylvania yield?

Mr. CLARK. I am happy to yield to my friend, the Senator from South Dakota.

Mr. CASE of South Dakota. A short time ago I read into the RECORD paragraph 434 of title 18, which is the so-called conflict-of-interest statute. As a layman, I think paragraph 434 deals explicitly with acting as a purchasing officer or procurement agent for the United States. The mere fact of holding a position woud not result in a violation of the statute, unless one while in a position as an agent of the United States entered into a contract for the United States with a company in which he had a pecuniary interest, under the wording of the statute.

Mr. CLARK. I would respectfully disagree with the Senator from South Dakota; and I urge that before 2 o'clock tomorrow he read the Mississippi Valley case. The conflict question in that case arose from the employment of a Mr. Wenzell as a special consultant for the Bureau of the Budget. At the same time Mr. Wenzell was serving as an officer and shareholder of the First Boston Corp. He participated on behalf of the United States in negotiations looking toward the formation of a Government contract in the execution of which First Boston might have been expected to participate. Mr. Wenzell had, and I quote from the U.S. brief in the case, "nothing to do with the negotiation of the formal contract," involving First Boston. Indeed his Government service ended several months before the contract was concluded.

Nevertheless, the Supreme Court of the United States held that, even though Mr. Wenzell did not participate in the negotiation of the actual contract or business transaction in question, his earlier role in events prior to the contract was a conflict under section 434 and voided the entire contract. So I suggest that a consideration of the barebones of the verbiage of section 434 does not tell us the whole story.

If the Senator from South Dakota does not find it convenient to obtain the entire opinion of the Supreme Court of the United States in the Mississippi Valley case, I refer him to the rather generous excerpts from the opinion of Chief Justice Warren in that case which I read into the RECORD earlier today and also placed in the RECORD yesterday at page 973.

Mr. CASE of South Dakota. I shall be glad to examine that. However, it is my recollection that while Mr. Wenzell had an interest in the First Boston Corp., he also had what amounted to a contract to act as an adviser of the United States.

Mr. CLARK. Yes, but Mr. Wenzell's contract of employment with the Government, referred to by the Senator from South Dakota, was over before the contractual relationship between the First Boston Corp., and the United States of America was established. It is the latter contract which was held void by the Supreme Court because of Wenzell's earlier position.

Mr. CASE of South Dakota. There could have been a second violation; but I would not rule out the possibility that if Mr. Wenzel was employed by the United States to act as an adviser, if he advised the United States while he served in that capacity and while he also was in a position to serve his own interest, that situation might constitute a conflict of interest.

Mr. CLARK. I urge the Senator from South Dakota to read the opinion in that case. I think that with his perceptive mind he will note its implications, and I believe it will be much more persuasive than what I have stated this afternoon.

Mr. CASE of South Dakota. That may be. I merely think that regardless of whether there is or is not a legal or a statutory conflict of interest, if a man of his general education and interests and with the stake he had in such things had a blindspot or a prejudice which would lead him to act in a certain way which would be more beneficial to the concerns in which he had a financial interest than to the interests of the United States. such a circumstance might actually involve a conflict of interest.

Mr. CLARK. Of course that concerns me, too. Although I am strongly of the view that Mr. McCone is a completely honest man, yet the conflict of interest problem worries me substantially.

What worries me even more is that in my opinion this particular position calls for a judicious and an objective temperament; and I believe that Mr. McCone in his activities and in his Government service thus far has shown himself to be an active protagonist of his private views. So I have grave reservations in regard to his qualifications for this particular office.

Mr. CASE of South Dakota. Mr. President, the Senator from Pennsylvania has used the word "objective." I think Mr. McCone will be both objective and judicious in his attitude.

Of course the Scriptures say that where a man's treasure is, there is his heart, also.

Mr. CLARK. The Biblical quotation which was used by the Supreme Court of the United States came from the Gospel according to St. Matthew—namely, "No man can serve two masters." That is in the Supreme Court's opinion.

## ADJOURNMENT

Mr. CLARK. Mr. President, I move that the Senate now stand adjourned until tomorrow, at 12 o'clock noon.

The motion was agreed to; and (at 6 o'clock and 6 minutes p.m.) the Senate adjourned until tomorrow, Wednesday, January 31, 1962, at 12 o'clock meridian.

## NOMINATIONS

Executive nominations received by the Senate, January 30, 1962:

MUNICIPAL COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

Frank Hammett Myers, of the District of Columbia, to be judge of the municipal

# *Daily Digest*

## HIGHLIGHTS

Both Houses received President's messages on Urban Affairs and Housing and U.N. bonds purchase.

House passed bill to aid higher education institutions.

# Senate

## *Chamber Action*

*Routine Proceedings, pages 1082–1101*

**Bills Introduced:** Eight bills and one resolution were introduced, as follows: S. 2762–2769; and S. Res. 287.

Page 1084

**President's Message—U.N. Bonds:** President's message transmitting proposed bill "to promote the foreign policy of the U.S. by authorizing the purchase of United Nations bonds, and the appropriations of funds therefor," was received and referred to Committee on Foreign Relations. Pages 1070–1071

**President's Message—Reorganization—Urban Affairs:** Message was received from President transmitting Reorganization Plan No. 1 of 1962, providing for establishment of a Department of Urban Affairs and Housing, to be headed by a Cabinet officer—referred to Committee on Government Operations. Pages 1098–1099

**Authority To Report:** Extension of time until February 28, 1962, was granted Committee on Labor and Public Welfare to file its report on migratory labor, pursuant to S. Res. 86 (87th Cong., 1st sess.).

Page 1090

**Civil War Commission:** Senator Tower was appointed to the Civil War Centennial Commission in lieu of Senator Curtis, who has resigned from that commission.

Page 1082

**Voting Tests:** By 61 yeas to 25 nays (motion to reconsider tabled), Senate adopted Mansfield motion to table the Javits appeal from ruling of Vice President referring to Committee on the Judiciary S. 2750, to protect the right to vote in Federal elections from certain literacy tests. Pages 1071–1082

**Patents—Government Contracts:** Order was entered that when S. 2754, national patent policy in Government contracts, is reported by the Committee on the Judiciary, it shall be referred to Committee on Aeronautical and Space Sciences. Page 1090

**Public Lands—Wyoming:** Senate resumed its consideration of H.R. 3879, conveying to the State of Wyoming certain real property in Sweetwater County.

Pages 1101, 1123

**Maine Bridge:** Senate took up S. 512, to extend the time for completion of the free highway bridge between Lubec, Maine, and Campobello Island, New Brunswick, Canada. Page 1123

**Legislative Program:** Under previously reached unanimous-consent agreement, Senate will vote at 2 p.m. Wednesday, January 31, on nomination of John A. McCone, of California, to be Director of Central Intelligence, and will take up three reported treaties for ratification.

Senate will not meet on Thursday, and on Friday will take up S. 1241, higher education aid.

On Monday, February 5, Senate will consider the resolutions that have been reported providing funds for operations of committees. Following disposition of these resolutions, Senate will consider S. 2520, enforcement of Welfare and Pension Plans Disclosure Act.

Page 1123

**Confirmations:** Numerous nominations in the Army, Navy, Air Force, and Marine Corps were confirmed.

Pages 1129–1131

**Nominations:** Two judicial nominations were received.

Pages 1128–1129

**Record Vote and Quorum Call:** One record vote and one quorum call were taken. Pages 1071, 1082

**Program for Wednesday:** Senate met at 11 a.m. and adjourned at 6:06 p.m. until noon Wednesday, January 31, when it will vote at 2 p.m. on the nomination of John A. McCone, to be Director of Central Intelligence, to be followed by action toward ratification of three reported treaties. Page 1128

## Committee Meetings

(*Committees not listed did not meet*)

MILITARY CENSORSHIP

*Committee on Armed Services:* Special Preparedness Subcommittee resumed its hearings on military cold war education activities and censorship of military speeches, having as it witnesses Gen. David M. Shoup, Commandant, Marine Corps; Gen. F. W. Smith, Jr., Vice Chief of Staff, Air Force; and Adm. George W. Anderson, Jr., Chief of Naval Operations.

Hearings continue tomorrow.

NOMINATIONS

*Committee on Foreign Relations:* Committee, in executive session, tentatively approved for reporting the following nominations: William S. Gaud, of Connecticut, to be Assistant Administrator for the Near East and South Asia, Edmond C. Hutchinson, of Maryland, to be Assistant Administrator for Africa and Europe, Seymour J. Janow, of California, to be Assistant Administrator for the Far East, and Teodoro Moscoso, of Puerto Rico, to be Assistant Administrator for Latin America, all of the Agency for International Development; Robert McClintock, of California, to be Ambassador to Argentina; C. Allan Stewart, of Arizona, to be Ambassador to Venezuela; John M. Steeves, of the District of Columbia, to be Ambassador to Afghanistan; and the following to be U.S. representatives to the U.N. General Assembly: Adlai E. Stevenson, of Illinois; Francis T. P. Plimpton, of New York; Charles W. Yost, of New York; Philip M. Klutznick, of Illinois; and Jonathan B. Bingham, of New York.

Prior to this action, in open session, testimony in behalf of their own nominations was received from Messrs. Gaud, Hutchinson, Janow, Moscoso, and McClintock.

NOMINATION—GSA

*Committee on Government Operations:* Committee held hearings on the nomination of Bernard L. Boutin, to be Administrator of General Services, with testimony from Senator Cotton, and the nominee.

Also, Mr. Boutin discussed with the committee the proposed legislative program of the GSA for this session of Congress, but did not conclude his testimony, which will be resumed on Thursday, February 1.

NOMINATION

*Committee on the Judiciary:* Subcommittee held hearings on the nomination of Griffin B. Bell, of Georgia, to be U.S. circuit judge, fifth circuit, with testimony from Senator Talmadge, and the nominee.

DRUG INDUSTRY

*Committee on the Judiciary:* The Antitrust and Monopoly Subcommittee began hearings on the provisions of S. 1552, Drug Industry Antitrust Act, which relate to advertising and promotion, having as its witness Dr. Arthur Sackler, chairman of the board, William Douglas McAdams, Inc., New York.

Hearings continue tomorrow.

# House of Representatives

## Chamber Action

**Bills Introduced:** 44 public bills, H.R. 9944–9987; 14 private bills, H.R. 9988–10001; and 8 resolutions, H.J. Res. 610 and 611, and H. Res. 529–534, were introduced.

Pages 1007, 1067–1069

**President's Message—Urban Affairs and Housing:** Received and read a message from the President transmitting Reorganization Plan No. 1 of 1962, providing for the establishment in the executive branch of a new Department of Urban Affairs and Housing, of Cabinet rank. The message was referred to the Committee on Government Operations and ordered printed as a House document (H. Doc. 320). Pages 995–996

**Committee Election:** Adopted H. Res. 529, electing Representative Ashbrook to membership on the Committee on Interior and Insular Affairs. Page 1007

**Legislative Program:** The majority leader announced that on Wednesday the House would consider a resolution providing additional funds for the operation of the Veterans' Administration. Page 1007

**President's Message—U.N. Bonds:** Received and read a message from the President announcing transmission of a proposed bill "to promote the foreign policy of the United States by authorizing the purchase of United Nations bonds and the appropriation of funds therefor." The bill would authorize and appropriate up to $100 million for the purchase of U.N. bonds. The message was referred to the Committee on Foreign Affairs and ordered printed as a House document (H. Doc. 321). Page 1007

**Higher Education Aid:** By a record vote of 319 yeas to 79 nays the House passed H.R. 8900, to authorize assistance to public and other nonprofit institutions of higher education in financing the construction, rehabilitation, or improvement of needed academic and related facilities. A motion to recommit the bill had been rejected earlier by a voice vote.

In addition to perfecting amendments the bill was amended to make the loan provisions the same as the grant provisions. Also adopted an amendment that deleted the provision for 10 supergrade positions.